

WRITTEN EVIDENCE SUBMITTED BY CORAM CHILDREN'S LEGAL CENTRE

(CSC0089)

Coram Children's Legal Centre

Coram Children's Legal Centre (CCLC), part of the Coram group of charities, is an independent charity working in the UK and around the world to protect and promote the rights of children, through the provision of direct legal services; the publication of free legal information online and in guides; research and policy work; law reform; training; and international consultancy on child rights. CCLC has undertaken amicus curiae interventions in a number of significant cases, including in the European Court of Human Rights, the Supreme Court and the Court of Appeal, providing assistance to the court on matters of children's rights and best interests.

CCLC and the wider Coram group have been heavily involved in the law, policy and practice surrounding the children's social care system. CCLC's response also contains evidence from other Coram group charities, particularly Coram Voice, who have contributed evidence on sibling relocation, advocacy, homelessness, discrimination issues and incorporation of the UNCRC. We are submitting this evidence to highlight some of the issues we see within the social care system through our work, as well as make recommendations on making improvements to the system and for children who interact with it.

Summary

In summary, CCLC believes that human rights should be central to the children's social care system, from the law and statutory duties, to practice and culture within the system. Key concerns we have include sibling separation and issues with family contact, immigration-related barriers for children and young people, limited access to legal aid, discrimination and stigma, educational inequalities, unsafe accommodation (especially for homeless 16–17-year-olds), and weak advocacy and complaints mechanisms. CCLC believe there needs to be systemic reforms in the children's social care system, that feature stronger legal protections and better practice and culture. We also recommend incorporation of the UNCRC into domestic law, improved access to justice, better training for professionals, and improving access to advocacy.

1. To what extent are Convention rights protected in the children's social care system, particularly:

The right to respect for private and family life, Article 8 ECHR

In terms of the right to private and family life for those in the children's social care system, we do see significant issues in a number of areas, particularly given that Article 8 is a qualified right that can be interfered.

Sibling separation and relocation

For sibling separation, it is noted that although there is a duty to accommodate siblings together, this is qualified by the fact there is a duty *"so far as is reasonably practicable and consistent with their welfare"*.¹ Research by the Children's Commissioner showed that an estimated 37% of children

in care were separated from at least one of their siblings in the initial placement and that sibling separation. Research also highlights that sibling separation can have an impact on stability, cohesion with the foster family, permanence, health and wellbeing and educational progress.² One of the recommendations from the Children's Commissioner's research was that the UK government should introduce legislative change to ensure that children are placed with their siblings whenever it is in their best interests, and have contact with siblings if they are separated (including amending the Children Act in this regard and amending the regulations to increase weight given to decision making on siblings in the care planning process.³

Coram Voice, part of the Coram group of charities, note that many children in care are in a unique situation compared to other children in that they no longer live with their birth families. This does not however mean that staying connected with family is unimportant. This has been recognised in legislation with provision to make arrangements for 'contact' or as children prefer to call it 'family time'. As part of their Bright Spots research into children's wellbeing Coram Voice explored children in care's experiences of family time. Their Staying connected report analysed over 7,500 survey responses and 3,000 comments to questions from children in care about spending time with their birth parents, brothers and sisters.⁴ Their findings include:

- Happiness with how often children in care saw their family was important to their well-being.
- For every 10 children in care between 2 and 3 felt they saw their mums, dads, brothers or sisters too little. Most children and young people who commented wanted to see their family more often. Only 185 comments of the 3,000 were about family time being 'just right'.
- Not all children and young people wanted more contact. Out of every hundred children in care, 2 or 3 wanted contact to stop or be cut down.
- Most of the written comments from children and young people were about how much they enjoyed living with their brothers or sisters and missed those who did not live with them.
- Most children and young people wanted to see their parents and siblings, but they also wanted to see extended family members, pets or other adults who were important to them.
- Half of the young people felt involved in decision-making and that their wishes were listened to. Others felt ignored and that decisions were made for them.
- Some children and young people wrote about things not being explained or of not being informed about their families, especially their dads.

An example from a child (aged 8-10) in Coram Voice's research reflects the difficulties children in care experience: *"I used to see Mum and older brother three times a week. It has been cut down to once a week and this makes me sad. I don't know why contact was cut down."*

Coram Voice made a number of recommendations in the report on how to improve family time.

- Work with all children in care to identify the key relationships in their lives.

¹ <https://www.legislation.gov.uk/ukpga/1989/41/section/22C>

² https://www.iriss.org.uk/sites/default/files/2023-01/sibling_relationships_in_care_0.pdf

³ <https://assets.childrenscommissioner.gov.uk/wpuploads/2023/01/cc-siblings-in-care.pdf>

⁴ <https://coramvoice.org.uk/resource-library/staying-connected-report/>

- Make arrangements for children and young people to maintain contact, develop relationships and reconnect with people who are important to them.
- Listen to and involve children and young people in decisions about the arrangements to see and keep in touch with family and others who are important to them.
- Keep children in care informed about their families, why they can or cannot see them, and what arrangements have been made for them to spend time together.
- Ensure plans are regularly reviewed and reflect the current circumstances, wishes and needs of children and young people and their families.
- Normalise family time whenever possible, minimising the use of contact centres and supporting children and families to meet in the community.
- Make sure the workforce has the skills and knowledge to prioritise and confidently support children in care to stay connected to the people who are important to them.

The focus on much of family time policy and practice is on children's relationships with adults. Increased focus on relationships in children's social care is welcome including initiatives like family finding services to support children in care and care leavers to identify and maintain links with the people who are important in their lives.

Children and young people advised Coram Voice that the instability in their lives makes it more difficult to retain relationships with peers and increasing stability and seeking to support children to stay in their local communities, as proposed in the Independent Review of Children's Social Care, will have a positive impact on these relationships. Coram Voice also noted that there needs to be a greater emphasis on relationships with friends and brothers and sisters as the important people who can provide the long-term loving relationships. Their Bright Spots research noted that for care leavers, friends are the most commonly reported source of emotional support.⁵

Their research also notes that 52% of children aged 8-10 and 44% of 11-18 year olds said that they saw their brothers and sisters the right amount of time. Whilst some said they saw them too much, a larger proportion felt that they saw them too little. Children who did not live with their siblings often reported that arranging contact with siblings is not always prioritised.

Young people who had many placements were less satisfied with how often they saw brothers and sisters than those who had fewer placements, yet this is a group who could particularly benefit from maintaining relationships. Many children who have participated in the Bright Spots programme wrote about being separated from their siblings through adoption. It would be important to consider how the connection with brothers and sisters can be maintained for children who are adopted as well as with those who go into care or continue to live with birth parents

When it comes to supporting family time, further work is needed to create a culture where children and young people's relationships are prioritised. There is currently a proposed amendment to the Children's Wellbeing and Schools bill that would include siblings alongside parents in article 34 of the Children Act 1989. This appears to be similar to a previously proposed amendment to the Children and Social Work Bill.⁶ Coram Children's Legal Centre and Coram Voice support such a move as it would emphasise the importance of sibling relationships and provide a right in law that children and advocates can refer to if children are not happy with arrangements to keep in touch with siblings. However, legislation and guidance can be part of the levers for culture change, but unlikely to

⁵ <https://coramvoice.org.uk/wp-content/uploads/sites/2/2025/02/1883-CV-What-Makes-Life-Good-Report-final.pdf>

⁶ https://www.theyworkforyou.com/psc/2016-17/Children_and_Social_Work_Bill/07-0_2017-01-12a.221.1

achieve it without wider work to inform practice.⁷ In addition to any legal changes that put a greater emphasis on sibling contact examples of positive practice include measuring outcomes that (e.g. Bright Spots data), amending local policies and guidance (e.g. integration into corporate parenting strategies, introducing training and youth led resources to promote a change in culture.

Family and private life and immigration

Significant challenges persist for children in care and care leavers who are subject to immigration control. Children may enter the care system for the same reasons as British citizens—such as family breakdown or safeguarding concerns—or as a result of abandonment by a parent or carer. Where a separated child is taken into care, they may be looked after and accommodated under section 20 or a care order of the Children Act 1989.

Immigration status among this cohort varies and may include indefinite leave to remain, limited leave to remain or dependency on a parent's visa, or no leave to remain. They may also be British but do not have the evidence or proof of parent's nationality/status to show this. There are many different routes for a child with immigration issues in care – including claiming asylum, making an immigration application (including those linked to being a child in care) and longer periods of leave to remain. More than one route to regularisation may be available and rules change a lot.

It can be really difficult for a child in care to navigate these issues, and there is really mixed knowledge of these rights amongst local authority professionals. Young people will need legal advice and representation to resolve their issues, but this can be difficult if they are not referred in time, or there are a lack of legal providers in their area.

CCLC have worked with a number of other organisation on 'taking care', an immigration support pledge for local authorities. It was noted that by the end of 2021 there were at least 19,000 children in care and care leavers with an immigration or citizenship issue in England. It was further noted that early identification and resolution of immigration and nationality issues can, most importantly, lead to better outcomes for children and young people's futures, but also be significantly more cost-effective for local authorities. The recommendations are for local authorities to commit to:

- identify all looked-after children and care leavers with immigration and nationality issues;
- connect looked-after children and care leavers with good quality legal support as soon as possible;
- take a proactive and informed role in supporting looked after children and care leavers through any immigration applications and appeals;
- enable those who are eligible to apply for permanent status and British citizenship.⁸

Families with children supported under section 17 of the Children Act 1989 will also need immigration advice and representation to regularise their status. An undocumented parent may need advice on paternity/nationality issues relating to their child, making an immigration application or asylum claim. Families with no recourse to public funds may need assistance to make a further leave to remain application or to have their NRPF condition removed from their status. Again, it can be difficult for families to find legal representation, and often legal aid is not available for the type of

⁷ <https://coramvoice.org.uk/resource-library/voice-data-and-measuring-what-matters-to-children-learning-from-the-bright-spots-programme/>

⁸ <https://www.slr-a.org.uk/campaigns/immigration-support-pledge/>

application they need to make. Exceptional case funding may be accessible but adds an extra barrier to resolving status.

Some routes to regularisation, particularly for families, can take a long time for someone to be granted indefinite leave to remain (settlement) in the UK. Many routes are 10 years and therefore multiple applications will need to be made. Families may have ceased contact with social services and then be at risk of having a NRPF condition attached to their next leave to remain (if for example they can't find a legal representative to help apply or don't submit sufficient evidence).

We also note that unaccompanied asylum seeking children suffer various barriers to family and private life while in care, including no direct right to family reunion under the immigration rules, lack of legal aid providers, delays in the decision making process, poor decision making, and a postcode lottery in terms of care, legal advice and care leaver rights. We also are dismayed by recent changes that mean that it may be more difficult for children and young people recognised as refugees to become British citizens.⁹

- **The right to a fair trial, Article 6 ECHR (e.g. in relation to access to justice/legal advice)**

There has historically been a strong legal framework for the protection and support of children and young people in England and Wales. The legal aid system, introduced in 1949, was based on the belief that every person should have equal protection under the law, regardless of financial position or status. It was designed to ensure that those who could not pay were not left without legal advice and representation. The introduction of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) made major changes to the system and has made it much more difficult for children and young people to enforce and realise their rights.

CCLC has consistently contributed to the development of policy and practice by submitting evidence to a range of government consultations and parliamentary inquiries concerning legal aid.¹⁰ These submissions have highlighted the impact of legal aid restrictions on children and young people in a variety of legal areas, and have provided recommendations to ensure access to justice is upheld in line with statutory duties and human rights obligations. These include recent submissions to the Government Review of Civil Legal Aid in 2024¹¹, the National Audit Office's 2024 report on the Government's management of legal aid and the Ministry of Justice's immigration legal aid consultation in 2022. We have covered issues and recommendations in various areas of law we practice in, including family law, community care law, education law, and immigration and asylum law.

We remain incredibly concerned at the systemic issues in the legal and legal aid sector, and the impact this has on children and young people in the care system. As well as legal aid being unavailable for a number of areas of law, one of the main issues is that there has been a collapse in the number of legal aid providers, and even those providers may only provide legal representation in specific circumstances or types of cases. Jo Wilding recently updated report on legal aid availability in the immigration sector lays bare the crisis that has unfolded.¹²

⁹ <https://freemovement.org.uk/good-character-guidance-amended-to-block-refugees-from-naturalisation/>

¹⁰ <https://childrenslegalcentre.com/promoting-childrens-rights/policy/access-to-justice/>

¹¹ <https://www.coram.org.uk/news/coram-responds-to-government-review-of-civil-legal-aid/>

¹² <https://justice-together.org.uk/articles/no-access-to-justice-2/>

We have welcomed some positive changes, including the re-introduction of legal aid for separated children in 2019 and the 2024 announcement of legal aid fees in immigration and asylum cases¹³ but without systemic change the situation will not improve. Many children and young people in the care system will not be able to challenge breaches of their rights until the system as a whole is fixed. Our most recent recommendations include:

- The Ministry of Justice must take on responsibility for monitoring legal aid demand, as well as supply
- Civil legal aid rates should increase with the amount they have lost in the decades of inflation since they were set in 1996 and must be index-linked to future-proof their stability
- Pay providers fairly for work at pre-proceedings to incentivise early resolution
- Child recipients of legal aid should be genuinely exempted from means testing
- All looked after children and care leavers up to the age of 25 should be passported through the means test for legal aid
- Review approach to the means assessment of students in receipt of SLC maintenance grants
- Bring school exclusion matters back into scope of legal aid
- Bring immigration matters engaging human rights arguments back into scope of legal aid
- Bring all initial family law advice back into scope of legal aid
- Legal aid should be available in all cases in which a child is at risk of abuse

As noted elsewhere in our submission rights are limited if they can't be enforced. If access to justice is to be effective for children, it needs to go beyond simply stating their rights. It must ensure that children can understand, participate in, and benefit from the process in a way that respects their rights. This includes the availability of legal advice, child-friendly procedures, accessible information, a right for their views to be heard and effective remedies that are timely and enforceable.

The protection against discrimination in the enjoyment of Convention rights, Article 14 ECHR

Coram Voice have carried out extensive work in this area and note that children in care experience stigma and they worry about being labelled or judged if their care background is known. In their Bright Spots research they asked young people in care aged 11-17 if adults did things that made them feel embarrassed about being in care. 1 in 8 young people felt that adults had done things to make them feel embarrassed about being in care. Young people in residential care and girls more frequently reported being embarrassed by adults.

There was also a statistical association between feeling embarrassed and being afraid of going to school because of bullying. More than one in five (21%) of those who reported being fearful of bullying also reported feeling adults embarrassed them.

In Coram Voice's 10,000 Voices report¹⁴ they found that some young people, especially when they looked different from their carers, wrote that they became the focus of awkward questions from their peers. Young people felt they could not control when questions were asked and wrote:

- *When I go to school with my carers people always ask who they are, because they are both 60+ so it is very embarrassing for me. (11-17 year old)*

¹³ <https://childrenslegalcentre.com/cclc-welcomes-legal-aid-fee-announcement/>

¹⁴ <https://www.coram.org.uk/resource/10000-voices-children-in-cares-views-on-their-well-being-report/>

- *If it is parents' evening, people question me if that is my mum and they say she looks nothing like me. (11-17 year old)*
- *'I thought your mum was black' - friends at school said this about my foster carer [carer white and young person Black]. (11-17 year old)*
- *If go to doctors, dentist etc. I have to explain I am a child in care. (11-17 year old)*

Young people also wrote about procedures and rules that marked them out as different from their friends when they wanted to be "normal". Being taken out of class and having meetings at school were given by many young people as examples of adult behaviour that caused them embarrassment, did not respect boundaries, and made them 'different' to peers. Young people wrote:

- *Everyone knows I am in care. Why hold meetings where everyone can see?. (11-17 year old)*
- *It can be annoying the amount of visits from social workers and the amount of reviews I have to have when I am settled in my placement. It can also be embarrassing when I have meetings at school. (11-17 year old)*

There were comments from a few young people who felt they were discriminated against because of their care status. For example, they wrote:

- Patronise me. Tell me I can't do certain things because I'm in care. Tell my school to segregate me and my other peers who are in care because we are apparently less academic. (11-17 year old)
- When I was in primary school, they used to put a little colour next to my name to show I am in care. 11-17 year old

Coram Voice collated children and young people's recommendations to address stigma and those included:

- Change the language of social care - don't use words that make us feel different. Help us feel normal by avoiding acronyms and words that do not make sense to us.
- Get rid of ways of working that mark us out as different from other children and young people.
- Let us control who knows about our care status and how we share this - do not identify us with your actions (wearing badges, taking us out of class for meetings) or words (referring to carers, looked after status).
- Train foster carers, social workers, independent reviewing officers and personal advisers to discuss our care status with us, and empower us to take charge of our own stories.
- Train and support teachers to understand what it is like to be in care, to give us opportunities to be trusted (such as taking the register or showing visitors around), and to not single us out in the classroom as children in care.
- Recognise our potential, praise us when we do well and work with us to promote positive messages about children in care and care leavers.

The right to an effective education, Article 2, Protocol 1 ECHR

We note that there are systemic barriers and issues that mean that children in care and young people are not always able to access effective education. For children who arrive claiming asylum and English is not their first language, there is often insufficient ESOL provision in the area. There are also issues with delays in admissions procedures, issues with enrolment in further education, and limited capacity.

Department for Education data¹⁵ shows that children in social care are more likely to not meet expected standards in reading, writing and mathematics, have lower attainment across all Key Stage 4 attainment measures, and the longer a child is in care, the more likely Attainment 8 scores are lower.

Exclusions data from the Department of Education also shows suspensions and permanent exclusions for key social care groups for the academic year 2022/23. A 2023 UCL study¹⁶ found that children receiving children's social care support (including looked after children) are significantly more likely to be excluded than those who do not.

We note that based on the statistics a third of children with history of social care face either temporary or permanent school exclusion. This statistic comes from researchers assessing the cumulative risk of any type of exclusion between ages 11–16 from secondary school in England for students who received CSC services or SEN support (or both) compared with peers who received neither. This study included not just looked after children but also children in need (CiN, including children formerly in need), and those on or formerly on child protections plans (CPPs).

The study, looking at both temporary and permanent exclusions, found that *“children with a history of CSC exposure prior to joining secondary school were at substantially increased risk of exclusion across years 7 to 11. Whereas 12 % of children without CSC exposure in years 4 to 6 were excluded from secondary school at some point, 32 % of those who were CiN and 40 % who were subject to a CPP or were CLA were excluded.”*

We would also note the difficulties that children and young people in the care system with immigration issues face in accessing higher education. Although there are barriers in school and further education, children and young people will still find difficulty accessing higher education and student finance if they have limited or no immigration status. The rules are incredibly complex for young people to navigate, and delays in receiving immigration outcomes will also impact their ability to access higher education and student finance, even where they have the appropriate educational results. For example, a 19 year old who has limited leave to remain and has lived in the UK and been in care since the age of 10 would not be eligible for home fees or student finance under the current rules.

2. If the UN Convention on the Rights of the Child were to be incorporated into domestic law in England, to what extent would that affect the protection of the human rights of children supported by or in the social care system?

Incorporating the UN Convention on the Rights of the Child (UNCRC) into domestic law would be transformative for the protection of children's rights, including those children and young people in the care system. Children's rights protections remain a patchwork in England, and only ratifying the Convention means that accountability and access to justice for those children whose rights are breached is limited.

Incorporating the UNCRC into domestic law would also deliver significant legal benefits. It would make children's rights directly enforceable in UK courts, ensuring accountability when those rights are breached. Incorporation would also create consistency and legal certainty by embedding a

¹⁵ <https://explore-education-statistics.service.gov.uk/find-statistics/outcomes-for-children-in-need-including-children-looked-after-by-local-authorities-in-england/2024>

¹⁶ <https://www.sciencedirect.com/science/article/pii/S0145213423003137>

comprehensive framework for children's rights across all areas of law and policy. Public authorities would be under a statutory duty to consider children's rights in decision-making, while courts could interpret cases in line with UNCRC principles. Beyond legal remedies, incorporation would drive a cultural shift towards recognising children as rights-holders and ensuring their voices are central to decisions that affect them.

We would also note that while incorporating is important, how you implement the Convention is also of paramount importance. UNICEF has provided examples of countries that have incorporated the UNCRC, and the importance of effective implementation.¹⁷ We would also note that the failure to incorporate the UNCRC into UK law at Westminster undermines the full realisation of children's rights across the devolved nations. While Scotland and Wales have incorporated the UNCRC (albeit in different ways)¹⁸ has, these efforts are constrained by the devolution¹⁹. Without incorporation at the UK level, or agreement between the respective governments, devolved legislation cannot guarantee comprehensive protection or enforceability of children's rights, leaving significant gaps and inconsistencies in practice.

Article 12 of the UNCRC states that every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. Furthermore, Article 13 states children have a right to be given information, so that their views can be informed. The UNCRC provides an important reference point for children's social care supporting the centrality of rights to children in care and care leavers.

Importantly the right to be heard in the convention emphasises the need to listen to and act on children's views. Whilst listening to the wishes and feelings of children in care and care leavers has been embedded through legislation and guidance (Children Act 1989) we know that this right is not always realised. Coram Voice's Bright Sports survey²⁰ data shows that 1 in 7 children in care (aged 8-17) hardly ever or never feel involved in the decisions that social workers make about their lives. Being involved in decision making is associated with wellbeing with our research showing that the odds of having low well-being increased if you did not feel involved in decisions. Incorporating the UNCRC would enable children to better challenge when they were not being listened to and would improve overall culture in terms of listening to children and young people's views in procedures.

While ultimately, we want to see the full incorporation of the United Nations Convention on the Rights of the Child into UK law, there are also immediate steps that could be taken in reaching this goal. We would call for a duty on Ministers to consider children's rights when exercising their functions, and to prepare and publish a Child Rights Impact Assessment of all relevant policies, legislation and decisions. These easily achievable measures would greatly enhance protections for children's rights and wellbeing.

¹⁷ <https://www.unicef.org.uk/publications/child-rights-convention-2012-report/>

¹⁸ <https://www.legislation.gov.uk/asp/2024/1/contents>; <https://law.gov.wales/rights-children-and-young-persons-wales-measure-2011>

¹⁹ <https://supremecourt.uk/cases/uksc-2021-0079>

²⁰ <https://coramvoice.org.uk/wp-content/uploads/sites/2/2025/02/2410-CV-YLYC-2021-Report-new3-lo-10.10.10.pdf>

3. Do you believe there should be changes to legal protections for care experienced people? Could there be any potential drawbacks of making such changes on the basis of care experience?

We understand the positives of improving legal protections for care experienced people and this could make a difference in education, employment and other areas. We would be supportive if this applied to all care experienced people, while noting it is important to take into account the views of care experienced people in this regard. We note that a recent survey by the Children's Commissioner found that 85% of their 1,702 respondents supported making care experience a protected characteristic. Coram Voice have found in their experience that hearing testimony from care experienced people sharing the discrimination they have experienced, even from a very young age. and while there may be ways that society can help reduce stigma and discrimination, including creating greater public consciousness on these issues, just as with other areas of equality, there is a case to go further. We note that the Independent Review of Children's Social Care also recommended that the government should make care experience a protected characteristic in 2022.²¹

However, we are concerned around the creation of a two-tier system and carving out of protections. We note that the Children's Wellbeing and Schools Bill, Clause 21 is positive in promoting cross-government duties towards children in care and care leavers. However, Clause 22 carves out functions in relation to immigration, asylum and nationality.²² This example shows the risks of creating new legal protections but simultaneously cutting out some children and young people from those improved protections.

4. Do any human rights concerns arise from the disabled children's social care framework? If so, what are they?

At Coram Children's Legal Centre, including through our Child Law Advice Centre. we are usually contacted where there has been a negative experience in assessing the social care needs of disabled children. Coram Voice, are also contacted in the same circumstances. Some examples include:

- Where families are declined an assessment and referred for early help/ early intervention services instead, despite the services offered by the early help team being inadequate to meet the needs of the child. For example, a case where a child with diagnosed learning difficulties and a genetic condition causing chronic cardiovascular and feeding problems required support to attend social opportunities that their family could not meet (due to their own medical issues), and was referred inappropriately to the early help team, which cannot assess for short breaks as required.
- Families being declined an assessment and directed by the local authority to pay privately/ using their Disability Living Allowance funds for any extra support needed.
- Where local authorities are assessing children under the Chronically Sick and Disabled Person's Act 1970 rather than within the framework of s.17 Children Act 1989, leading to a CSDPA plan which does not offer the full range of services that would be available to the child under a Child in Need plan.
- Lack of consideration of the views of other professionals working with the child who have relevant expertise, especially where the external professional's recommendation is for a

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<https://webarchive.nationalarchives.gov.uk/ukgwa/20230308122449/https://childrensocialcare.independent-review.uk/final-report/>

²² <https://bills.parliament.uk/bills/3909>

higher level of support (and often therefor higher cost) than the local authority has provided. For instance, Coram's Child Law Advice Service supported a family whose children had been assessed by an independent specialist centre for complex developmental trauma as in need of specialist trauma therapy, but the local authority Child in Need plan expressed a preference for a short course of play therapy. The latter would have had no cost implication for the authority as opposed to the funding required for the specialist therapy, but was inappropriate to the needs of the children.

Coram Children's Legal Centre also recently responded²³ to the Law Commission's recent review of existing laws underpinning social care for disabled children and recommended reforms.²⁴ Our submissions provide our views on the suggested changes in greater detail. Positive changes include better joined up working between local authority departments and greater participation by children in decision making. We also noted our concerns around the loss of the wider discretionary powers currently available under section 17 of the Children Act 1989 and the importance of not reducing the rights or options for support available to disabled children and their families.

5. To what extent are there human rights concerns about the accommodation available to children in care? Are there particular concerns in relation to available accommodation for unaccompanied asylum-seeking children?

At the end of last year Coram published a report into the experience of homeless 16- and 17-year-olds.²⁵ The report followed a publication from 2014 that examined advocacy case work of Coram Voice, found that children were being allowed to become or remain homeless because local authorities were failing to give them the support they are legally entitled to. Coram's 2024 follow up report '*The Door is Still Closed*', found that little progress had been made in the intervening decade.

Statutory guidance and case law are clear that homeless 16- and 17-year-olds should receive a child in need assessment under section 17 of the Children Act 1989 and subsequently if found in need, owed a duty to be care housed under section 20 of the same Act. It was found that national data on homeless children is patchy and incomplete. Coram Voices advocacy service data was analysed and a number of barriers to ensuring children were supported were identified:

- Wrong legislation: A large number of 16- and 17-year-olds who become homeless are not assessed or are housed under the wrong legislation (the Housing Act 1996) with no practical or financial support from children's social care services until the age of 25
- Gatekeeping: Local authorities are continuing to gatekeep and 'wait out the clock' until children turn 18, at which point the local authority has less responsibility for them if not deemed a care leaver
- Unsafe accommodation: Vulnerable 16- and 17-year-olds are being housed in unsuitable and unsafe accommodation including adult hostels, unregulated or under-supervised provision. Children reported feeling scared, with one child going to a hospital to find somewhere safe to sleep. There was also clear evidence of adultification and a lack of recognition of the vulnerability of 16- and 17-year-olds

²³ <https://childrenslegalcentre.com/disabled-childrens-social-care-review-promises-change/>

²⁴ <https://lawcom.gov.uk/project/disabled-childrens-social-care/>

²⁵ https://www.coram.org.uk/wp-content/uploads/2024/12/Coram_HomelessReport_Digital.pdf

- Inaccurate information: Many homeless 16- and 17-year-olds are not being given accurate information and are forced to make uninformed decisions that will have a huge impact on their lives. Children said they felt manipulated and misled.
- Inadequate advocacy: Children are navigating the complexities of the different support options without consistent advice and advocacy (and in some cases legal advice) leaving children to make decisions which they later regretted. Advocate support was found to play a significant role in positive outcomes for homeless children.
- Incomplete data: National data on homeless 16- and 17-year-olds is incomplete, making it difficult to understand how well children's needs are being met and hold services to account in fulfilling their obligations in law.
- No early help: Vital early support to families that could help prevent many children from becoming homeless in the first place is missing. Many 16- and 17-year-olds who contributed to the report faced harrowing family situations of physical and emotional abuse, alcohol and substance misuse, financial difficulties and mental health issues resulting in family breakdown and homelessness.

The experience of homeless 16- and 17-year-olds is an example of challenges accommodation and with access to justice and legal advice. Whilst the majority of children and young people should be taken into care, their lack of understanding of the system and lack of support to navigate it and challenge decisions mean that many are not given the care that they need. Coram Voice's recommendations included:

- Access to accurate information: The government should produce a child friendly version of the statutory guidance to explain what to expect when you become homeless and the rights and entitlements of homeless 16- and 17-year-olds.
- Access to advocacy: Local authority advocacy contracts should include a proactive (opt-out) offer of advocacy for homeless 16/17-year-olds.
- Improve data: The government should collect and publish local authority level data on the number of 16- and 17-year-olds who present as homeless in order to allow better scrutiny over whether children and young people are supported.

Children's accommodation provision also differs depending on age. In 2021 local authorities were prohibited from accommodating children in care under the age of 17 that were not regulated and did not provide care and consistent supervision. In contrast, 16- and 17-year-olds may, following an assessment of suitability, be accommodated in supported or semi-independent settings designed to promote independence. Article 39 had challenged this distinction and noted that supported accommodation does not require the provision of care, leaving young people with less support and vulnerable to harm and exploitation.²⁶ We have concerns particularly given the issue raised earlier around the fact that many 16- and 17-year-olds who become homeless are already being failed by local authorities, often left unassessed and placed in unsafe or unsuitable accommodation without the care they are legally entitled to.

We further note that unaccompanied asylum-seeking children have long had issues with appropriate accommodation. From July 2021 a large number of unaccompanied children were placed in Home Office run hotels rather than being looked after by local authorities. An organisation we work closely with, ECPAT, noted that this type of accommodation placement meant that children were at

²⁶ <https://article39.org.uk/resources/resources-for-advocates/supported-accommodation/>

increased risk of exploitation.²⁷ The High Court also ruled that the routine use of such hotels was unlawful.²⁸

There are also accommodation issues in terms of asylum-seeking young people who are determined to be significantly over the age of 18 at the border. Coram Children's Legal Centre co-chairs the Refugee and Migrant Children's Consortium, a group of children's charities working together for the rights of refugee and migrant children. Some organisations in the Consortium have carried out significant research into this issue, and noted the Home Office continues to incorrectly assess children arriving in the UK as adults based on a quick visual assessment of their 'appearance and demeanour', leading to their placement in adult accommodation, detention and adult prisons.

This is a significant safeguarding concern and also means they are excluded from the care system. Yet in 2023, there were five times the number of age disputes than in 2019 – far greater than the increase in people seeking asylum in those years. This sharp escalation reflects a shift in the use of age assessments from a safeguarding tool, and one designed to ensure that children receive the support under the Children Act 1989 that they are entitled to, to an immigration control measure.

Data for January 2022 to June 2023 showed that more than 1,300 children had wrongly been assessed to be adults by the Home Office and sent to adult accommodation or detention before (sometimes months later) being referred to local authority children's services and accepted as/assessed to be children.

Last year, 90 local authorities in England and Scotland received 1,335 referrals to their children's services department of young people who had been sent to adult accommodation/ detention but were claiming to be children. Of the cases when a decision on age was made/age assessment concluded (1,221), 56% were found to be children - meaning that in 2024 at least 678 children had been wrongly placed in adult accommodation or detention at significant risk.²⁹

6. What human rights considerations arise from both formal and informal kinship care?

Coram Children's Legal Centre do not carry out significant work around kinship care. We would note Coram BAAF, one of the other charities in our organisation have significant experience in this area. We have also contributed to work by Children and Fostering Across Borders (CFAB) on kinship care and international placements.

We note CFAB's findings that international kinship care placements are rarely considered but should be if they are in the best interests of the child. We would also note the importance of child's views on the placement and its impact on the immigration status of that child, including in terms of their long term future.³⁰

²⁷ <https://www.ecpat.org.uk/news/child-hotels-increased-risk-of-exploitation>

²⁸ <https://www.ecpat.org.uk/news/ecpat-uk-wins-legal-challenge#:~:text=children%20%7C%20ECPAT%20UK-,ECPAT%20UK%20wins%20legal%20challenge%20on%20the%20unlawful%20accommodation%20of,when%20notified%20of%20their%20arrival.>

²⁹ <https://www.helenbamber.org/resources/reportsbriefings/lost-childhoods-consequences-flawed-age-assessments-uk-border>

³⁰ <https://www.cfab.org.uk/resources/international-kinship-care-guide>

7. To what extent are children with care experience overrepresented within the criminal justice system? If they are overrepresented, what are some of the driving factors for this?

Coram Children's Legal Centre do not hold a criminal law legal aid contract and consider that others are best placed to provide evidence in this regard.

8. To what extent is there a clear understanding by organisations, individuals, and public authorities, about statutory duties owed to children in the social care system, as well as the individual entitlements of these children? Do social workers, as well as others involved in providing support to children in care, receive adequate human rights training?

We have highlighted many instances in our evidence of there being a lack of clear understanding of statutory duties in various areas of law related to children in the social care system. In our experience we have come across really good practice, as well as poor practice in areas such as care planning, accommodation, provision of advocacy, obtaining legal representation for a child and general support and care. CCLC has provided training and guidance on various areas of law, but particularly on asylum and immigration, caring for families with immigration issues, age assessments, education, and modern slavery and trafficking. Our experience of training local authorities throughout England has shown that there is good knowledge and experience in local authorities but it is patchwork. Some local authorities or Strategic Migration Partnership areas would regularly commission training on these issues, some would have had no training for a number of years. There needs to be regular and more standardised training provided throughout England to ensure there is better practice throughout the country and less of a postcode lottery when it comes to care and support of a child in the social care system.

9. To what extent are there clear and effective complaints mechanisms, as well as effective remedies, to deal with human rights issues arising in children's social care system?

The complaints mechanisms within the children's social care system in England have a number of issues that undermine its effectiveness. The process is complex and often poorly understood, with many children and families unaware of their rights or how to escalate concerns. Even when complaints are lodged, local authorities frequently miss statutory deadlines, causing delays and prolonging distress.

Coram Voice have noted that there are significant issues with advocacy provision in England, one of the core ways of supporting children and young people through complaints processes. Whilst advocacy services for children in care exist, we know that provision is patchy. Through Coram Voice Always Heard mapped advocacy provision in 2022 it found: ³¹

- 55% of local advocacy services don't provide freephone access.
- At least 21% of local advocacy services are unable to provide help and advice in time.
- At least 14% of local advocacy services are restricted or unable to support care leavers
- At least 18% of local advocacy services are unable to support those placed outside their area
- At least 26% of local advocacy services are unable to provide interpreters for young people who are refugees or migrants.
- At least 38% of services do not offer advocacy support to all children in care and care leavers
- At least 12% of advocacy providers are unable to provide Non-Instructed Advocacy to young people with disabilities who need it.

³¹ <https://coramvoice.org.uk/wp-content/uploads/sites/2/2025/01/lways-Heard-Report-2022.pdf>

This means that inconsistencies in support are based on age, disability and language skills as well as where children and young people lived, making it more difficult for those children to realise their rights. The provision of advocacy safeguards children and young people and protect them from abuse and poor practice. It gives recourse to children who find themselves homeless or at risk; unhappy with the care and support they receive or whose wishes and feelings have been disregarded. It will ensure that children and young people are empowered to realise their right to be heard, challenge decisions about their care, and ensure children and young people's rights are upheld. Access to independent advocacy means children have a trusted adult whose sole purpose is to be the voice of the young person, rather than make their own best interest decisions about them. It gives children and young people the help and support they need to understand and navigate the system and the tools to share their views and inform decisions.

Even where advocacy services are available, children and young people may be unaware of it. A Coram Voice and NYAS 2022 report³² showed that almost a third of children and young people in care don't know how to get an advocate. It is more likely that children who are in contact with children's rights organisations such as Coram Voice and NYAS would know about their right to advocacy, meaning that the proportion of all children in care in England who know how to get an advocate is likely to be even lower.

One young person said: *"It can feel like you have to 'fight' for an advocate at the moment. It feels because the process was really difficult and not straightforward that having an advocate was something I weren't meant to have. Therefore having one instantly helps this feel meaningful and like it matters."*

The Independent Review of Children's Social Care³³ recommended that advocacy services should be opt out and all children and young people in care should be contacted by an advocate to offer support at key points in their lives.

Of the children and young people surveyed, 64% reported needing an advocate to resolve issues with social workers and personal advisers, 53% needed an advocate to help with family contact issues and 47% needed an advocate due to issues with school or education. Children and young people felt it was important that they had access to advocates during reviews, especially if, as proposed in the care review, Independent Reviewing Officers (IROs) are removed. They also wanted advocates to be more proactive in contacting young people directly.³⁴

The Government has not acted to improve advocacy services, despite calls for creating opt out advocacy in the Independent Review of Children's Social Care³⁵ and the Child Safeguarding Practice

³² <https://coramvoice.org.uk/wp-content/uploads/sites/2/2025/06/ChildrenandyoungpeoplesviewsonEnglandscarereview-NYASandCoramVoice-compressed-2.pdf>

³³

https://webarchive.nationalarchives.gov.uk/ukgwa/20230308122535mp_/https://childrensocialcare.independent-review.uk/wp-content/uploads/2022/05/The-independent-review-of-childrens-social-care-Final-report.pdf

³⁴ <https://coramvoice.org.uk/wp-content/uploads/sites/2/2025/06/ChildrenandyoungpeoplesviewsonEnglandscarereview-NYASandCoramVoice-compressed-2.pdf>

Review Panel's recommendations for independent advocacy in residential care after their investigation of serious abuse and neglect in Hesley Group homes.³⁶ If these recommendations were implemented services and support would improve as a result and better meet the needs of children and young people and improve outcomes for looked after children and care leavers.

It would provide advocacy to children and young people who currently do not always have recourse to challenge the care, support, education or health services they need. There was a consultation on new standards for children's advocacy services, during the previous Government, but these are yet to be published. Publishing updated standards could help improve practice and inform better commissioning of advocacy services.

In terms of legal advice and representation, although most of the community care work carried out by our community care team is still covered by legal aid (via judicial review), LASPO has still had an impact on clients. The lack of legally aided immigration providers has a knock on effect where the child or young person also has a community care issue (for example an age assessment). There also is a general lack of capacity in the community care legal aid sector for the demand. Our solicitors also highlight delay as a particular problem, as well as a complex process where issues that need to be dealt with quickly are not prioritised and deadlines are not changed to reflect the reality of the issue.

10. Are there examples of good practices that protect and promote human rights in children's social care systems from devolved nations or other countries, which could improve the system in England?

The Scottish Guardianship Service provides a critical layer of protection and support for unaccompanied asylum-seeking children and young people, ensuring their rights and welfare are upheld throughout complex immigration and care processes. By assigning each child a dedicated guardian, the service offers consistent advocacy, practical guidance, and emotional support, enabling young people to understand legal procedures, participate meaningfully in decision-making, and access essential services. Guardians work collaboratively with legal representatives, social workers, and other professionals to promote a child-centred, trauma-informed approach, reducing the risk of exploitation and re-trafficking. An evaluation of the service demonstrated significant positive impacts: guardianship improved young people's understanding of the asylum process, strengthened engagement with legal representatives, and increased the likelihood of fair and informed decisions.³⁷

(Sep 2025)

³⁵

https://webarchive.nationalarchives.gov.uk/ukgwa/20230308122535mp_/https://childrensocialcare.independent-review.uk/wp-content/uploads/2022/05/The-independent-review-of-childrens-social-care-Final-report.pdf

³⁶

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1151060/Safeguarding_children_with_disabilities_in_residential_care_homes_phase_2_report.pdf

³⁷ <https://scottishrefugeecouncil.org.uk/wp-content/uploads/2022/02/An-evaluation-of-the-Scottish-Guardianship-Service-2022.pdf>