

Witness Name: Louise King

Statement No: 1

Exhibits: LK/01 - LK/23

Dated: 30 July 2025

UK COVID-19 INQUIRY

MODULE 8

WITNESS STATEMENT OF LOUISE KING

1. I am Louise King, co-lead at Just for Kids Law (JfKL). I am responsible for policy and public affairs work, which includes the work of the Children's Rights Alliance for England (CRAE). CRAE merged with JfKL in 2015.

Part A

My background, experience and expertise

2. JfKL provides legal advice and representation for children and young people and employs the casework evidence to achieve strategic change in law, policy and practice to ensure that children's rights are better realised.
3. I have provided the Inquiry with a statement in Module 2 (INQ000282335). I have in part replicated the contents of that statement here and expanded on matters relevant to Module 8.
4. I have 25 years' experience working in policy and public affairs, specialising in children's rights. I have worked at Save the Children UK, where I dealt with children's rights issues, including child poverty, the treatment of separated asylum-seeking children, child trafficking and exploitation, and the reform of the Children's Commissioner for England. I led on child rights governance policy and advocacy in the UK, which focussed on campaigning for the United Nations Convention on the Rights of the Child General (CRC) Measures of Implementation (the laws structures and processes that need to be in place if the CRC is to be fully respected) to be taken forward in the UK. I helped establish and chaired the Rights of the Child UK coalition which campaigns for the incorporation of the CRC into UK domestic law. I have been Vice President of the European Children's Network and chaired the Separated Children in Europe Programme.

5. I became the Director of CRAE in 2015 and oversaw its merger with JfKL and was appointed Co-Lead of JfKL in August 2023. My responsibilities include leading CRAE's children's rights monitoring, advocacy work and engaging with international human rights mechanisms. I am (with a Department for Education senior civil servant) the co-chair of the United Nations Convention on the Rights of the Child Action Group. The group developed a template for civil servants to carry out child rights impact assessments and an e-learning tool for officials on children's rights.
6. I employ my extensive expertise on the CRC General Measures of Implementation and work to influence the UK Government to better implement them. I have written several publications on the subject, including *Governance fit for Children: To what extent have the general measures of implementation of the CRC been realised in the UK*; numerous *State of Children's Rights in England reports*. CRAE publishes State of Children's Rights in England reports that scrutinise the UK Government and assess whether it is making progress on children's rights and hold it to account for its actions to implement the UN CRC Committee's recommendations. I have drafted submissions to UN Human rights monitoring mechanisms including treaty monitoring reporting processes and Universal Periodic Review.
7. I have had the opportunity to read the witness statement of Dan Paskins, Director of Policy UK at Save the Children Fund provided in Module 2. I endorse the points that he has made. I worked with Mr Paskins in Module 2 of the Inquiry when Save the Children UK (SCUK), JfKL and CRAE were joint core-participants. As we work in overlapping specialist areas, I have avoided repetition and confined myself to areas beyond the scope of SCUK.

Background and summary of Just for Kids Law and Children's Rights Alliance for England

8. JfKL was established in 2007 and is registered as a UK Charity and limited company – charity number 1121638 and company number 05815338.
9. JfKL works with children and young people (up to 25 years) to ensure their legal rights are respected and promoted, and their voices heard and valued, and campaign for reform. We do this by providing legal representation and advice, through strategic litigation, policy influencing and campaigning, and equipping others to work for children's rights. Our vision is for all children and young people to have their legal rights and entitlements respected and promoted, and their voices heard and valued.
10. JfKL employs the evidence from its legal casework with children and young people to fight for wider reform through strategic litigation and empowering children and young people to campaign. Although our work is mainly confined to England, our strategic

litigation and policy work can have an impact in other parts of the UK. Our policy work relates to both England and Wales, for example, in relation to the policing and youth justice. In regards litigation, we intervened in a case in the Court of Appeal in Northern Ireland concerning the rights of children accused of crimes to anonymity as this supported our strategic aims.

11. CRAE was established in 1991. CRAE and JfKL are a single legal entity and share the same governance and financial structures. CRAE works with its members to promote children's rights and monitor government implementation of the CRC. Members come from across the children's and equality and human rights sectors. It undertakes influencing work to ensure that children's rights are better realised in England. CRAE empowers children and young people to campaign for the realisation of their rights and to share their views and experiences with the CRC monitoring bodies on how well their rights are being respected.
12. While CRAE's work is mainly confined to England it sometimes works on policy areas which are non-devolved, for example, safeguarding the Human Rights Act and advocating for incorporation of the CRC. CRAE works with partners from across the UK to raise UK-wide matters with the UK Government and when reporting to UN treaty monitoring bodies or submitting evidence during the Universal Periodic Review to the UN Human Rights Council.
13. In 2023, JfKL undertook a fundamental operational and strategic review which led to developments in our work streams. The priorities today are different to than during the pandemic. It is important to note that the organisation has changed since we completed the Rule 9 Response in Module 2 (completed in December 2022).
14. From 1st August 2023, JfKL prioritised supporting and empowering children and young people through legal advice, representation and high quality, holistic legal representation in criminal and community care law. We continue to use evidence from our casework to fight for systematic change impacting children across the country and to promote and protect children's rights through CRAE, which remains a key part of our organisation.
15. At the same time, our work legal, advocacy, youth participation and campaigning work around school exclusion, housing, care leavers and immigration legal work transferred to the children's charity Coram. The Youth Justice Legal Centre (YJLC), established in 2015, had been part of JfKL and separated to form a community interest company. We maintain strong links and Aika Stephenson (JfKL co-lead) is a director of the YJLC. See more details at paragraph 18 below.
16. In this statement I focus on the work JfKL did before and during the pandemic, which includes areas of work we do not now undertake.

17. At the time of the pandemic our work focussed on helping children and young people to overcome problems at school, unresolved immigration status, contact with the police and the criminal justice system. Our impact reports illustrate that at the beginning of 2020, rising deprivation, over stretched and underfunded public services resulted in increasing demands for our services.
18. The YJLC was established by JfKL in 2015 to provide legally accurate information, guidance and training on youth justice law. Its mission was to be a centre of excellence on youth justice law at a time when very few resources existed for professionals and there was no requirement that lawyers representing children in the criminal justice to have any kind of specialist training. It has been at the forefront of training lawyers representing children helping to ensure effective communication with children and expertise in children's rights. It provides legal updates on new and developing areas of youth justice law alongside an advice line for professionals, families and children looking for expert advice on youth justice issues.

The work and services provided by Just for Kids Law

19. The nature of the work and the services that were ordinarily provided by JfKL in 2020 included a range of direct programmes, such as advocacy, legal representation, youth opportunities and young people-led campaigns. Our youth advocates worked directly with children and young people to make sure that their wishes and feelings were heard and taken into account by the professionals working with them. They helped children and young people access legal support and other specialist services they needed to resolve the challenges they face, which were often multi-faceted. The long-term aim of our advocacy service was to empower young people to advocate for themselves.
20. In 2020, JfKL casework was holistic. We identified multiple areas of a child or young person's needs and provided a range of support from specialist advocates, lawyers and youth opportunities workers who were co-located within JfKL to provide a joined-up package of help and support. We provided direct legal advice in relation to criminal, education and community care, housing, immigration and public law, with criminal justice being the area where we supported the largest number of children.
21. Although we have represented children from different parts of the country, the majority of children and young people we supported were from within the Greater London area. We work with some of London's most vulnerable children and young people. This includes disproportionately high levels of clients from Black and other racialised groups (78% in 2019/20), care experienced children and young people and disabled or neurodiverse children. In 2019/20, half of our clients had some involvement with social services, nearly a third had some experience of being in the care system.

22. At this time, JfKL undertook policy work on key thematic areas which included housing and social care, school exclusions, child criminal exploitation, and policing and criminal justice. We had two child and young person led campaigns focussing on school exclusions, housing and social care. We monitored and campaigned for the full implementation of children's rights through the CRC.
23. I have provided examples below of the nature of the work that JfKL was undertaking at the end of 2019 and into 2020 which illustrates the work we were doing.

How Just for Kids Law responded to the pandemic

24. I have adopted the time period for the pandemic as between 1 January 2020 and 28 June 2022, the "specified period".
25. JfKL continued to offer direct services to children and young people in the Greater London area. Between April 2020 and March 2021, the team worked with 785 children and young people and managed 1,297 cases. This is a similar total number of clients to the previous year with an increase in 20% cases which reflects an increased need among children and young people during this period.
26. The policy work changed dramatically. The UK Government introduced, at speed, new regulations with an impact on children and young people. Usually, policy changes would have involved consultation providing time to consider changes, consult with children and young people and others in the sector, and engage with members of parliament. As a result, we could not respond in as much detail to the new regulations as we would have usually done. There was less effective engagement and oversight of policy changes before they came into force. This was compounded by the staffing challenges to JfKL - as explained below.
27. In this context, we could not undertake some work that we considered important for protecting children's rights. For example, we wrote a joint letter with Playing Out to the UK Government in the Spring of 2021, which set out the concerns of our organisations about the rules on interhousehold mixing. This was an area that we would have raised earlier in the pandemic, and, if necessary, have taken a legal challenge, but did not have capacity to do so.
28. At the beginning of the pandemic, JfKL severely reduced the amount of face-to-face services it offered to children and young people. This step was taken to ensure the safety of its staff and to comply with the relevant law and guidance. There were some exceptions including the need to represent children at the police station. We found that the lack of direct contact with children and young people was less effective. Our clients are vulnerable, young and from disadvantaged backgrounds. It was not always possible and/or appropriate to provide support remotely due to communication needs

and lack of access to digital services. The absence of in-person meetings challenged building positive relationships and trust between our staff and new clients, at a time when many children and young people required more support. We took steps as the pandemic progressed, alongside rule changes, to find ways to allow for in-person meetings that were safe.

29. JfKL staff had a variety of issues caused by the pandemic which impacted their ability to carry on working as normal. Some staff were furloughed as we couldn't adequately train and supervise them. Others had caring responsibilities for children and as most were not designated as key-workers, their children were at home during school closures. More staff required sick-leave than usual and were required at times to "self-isolate". Staff had understandable concerns about the pandemic and were extra-cautious around in person contact. We required staff to work from home at short notice, many of whom did not have home environments conducive to work. Some worked from their bedrooms or lived households unsuited to work.
30. We implemented policies to provide additional support and protect the well-being of staff, such as, reduced working hours to allow for childcare, additional online supervision sessions with managers and online team activities, and providing equipment for home working. In summary, while the demand for our frontline and policy work increased, the capacity to respond decreased.
31. In Part C of my statement, I set out JfKL's observations on the impact on our clients of the pandemic and the UK Government response.
32. In Part D of my statement, I set out JfKL's interactions with the UK Government during the pandemic including meetings with officials, producing briefing papers, campaigning and bringing litigation.
33. What follows is examples of the JfKL work from the early part of 2020 onwards:
 - a. Represented a child victim of county lines drug trafficking who had been excluded from school. We challenged the exclusion decision and supported his return to mainstream education and ensured he had a safe home.
 - b. Represented a young man with mental health needs to access suitable accommodation and support from the local authority's leaving care team.
 - c. Supporting a migrant child obtain leave to remain whose status had not been regularised, who also worked with JfKL, becoming involved in participation work and voluntary work within the organisation.
 - d. Supporting young care-leavers, who are also parents, to advocate for them and their children with the local authority and receive appropriate support.
 - e. Continuing to assist children to apply for settled status under the proposed Brexit withdrawal agreement.

- f. Undertaking work to mark 30 years of the CRC, including holding a reception in parliament with Vicky Ford (then Children's Minister), the Equality and Human Rights Commission and UNICEF UK and publishing a joint briefing paper on how the CRC can be used more effectively by parliamentarians and officials to support better policy decisions that impact on children.
- g. Supporting children and young people with housing problems to secure accommodation to prevent homelessness, but also to improve the accommodation they were provided with.
- h. Representing a child challenging a youth court's decision not to grant an intermediary to assist him in his trial (*R(TI) v Bromley Youth Court* [2020] EWHC 1204 (Admin)).
- i. Campaigning about the rights of children used as Covert Human Intelligence Sources within the new bill that was being passed through Parliament.
- j. Representing young people whose childhood offending was impacting their employment prospects due to disclosures by the Disclosure and Barring Service.
- k. Representing children who were excluded from school, or had other education issues, including work on running the School Exclusions Hub which is a free resource (now hosted by Coram) for those supporting children to challenge school exclusion. At that time we ran the website and supported enquiries (see schoolexclusionshub.org.uk).
- l. Campaigning to encourage the UK Government to implement changes to the disclosure regime for youth cautions following our Supreme Court victory in 2019 (the changes to the law were made on 28 November 2020).
- m. Undertaking a project to engage and empower children and young people from London with lived experience of school exclusion to organise around and undertake social action to achieve change. This included supporting them to be involved in a parliamentary debate on school exclusions submitting a briefing and questions to MPs.
- n. Working on and drafting the Civil Society Submission to the List of Issues Prior to Reporting to the United Nations Committee to the Rights of the Child.
- o. Policy work that was not specifically Covid-related, such as briefings to Parliament on issues such as unregulated children's homes and Child Criminal Exploitation and Schools Exclusions and the publication of policy

briefings examining the impact of police use of force on children's rights, including Tasers and spit-hoods.

34. In addition to the examples above we represented a large number of clients in contact with the criminal justice system, both through criminal representation but also through a dedicated and free advice line run by the YJLC who gave advice to children, their parents, youth justice services, other lawyers and a range of other people and professionals concerning children in the youth justice system.
35. During the pandemic we continued to represent children arrested by the police, even in the most stringent of lockdowns. This meant that members of our crime team had to continue in person work. Criminal courts continued to operate in sometimes limited capacities, at least to deal with bail applications or remands to Youth Detention Accommodation. Our clients continued to be arrested for various offences. The police often considered that the fact that the children were outside the house, potentially in breach of the Stay at Home guidance, to be an aggravating factor, and the police continued to arrest children even for minor offences, without any noticeable change in approach. This entailed children, some of whom were unwell, and therefore a risk to others, being confined to police cells and in police vans, in close proximity to others.
36. As noted above, while having the difficulty of supporting our own staff and operating at reduced capacity, we saw an increase in demand to our services, in particular an increased demand for our emergency hardship grant. Prior to the pandemic, this was used to give some limited financial support to our clients facing various crisis situations, for example, to buy suitable clothing for court appearances, to pay for transport to ensure participation at key appointments, to buy food and other key household items and to provide emergency overnight accommodation to prevent imminent street homelessness where all attempts to ensure the correct body has provided the lawful support have failed.
37. During the pandemic, we noticed that our existing clients had more, and a different range of problems, and that obtaining lawful and adequate support for them was more challenging than usual. Much of this is dealt with at Part C of my statement below, but in particular includes the difficulties in getting hold of the correct services, whether that was the relevant social worker, someone from the Emergency Duty Team at social services, or the DWP to access benefits. As a result, we gave out additional hardship grants and a greater proportion of our hardship fund was spent on providing emergency overnight accommodation to prevent street homelessness.

Part B

The pre-pandemic state of children's rights

38. In March 2020, in my view, and the view of JfKL, children were structurally disadvantaged. Children's rights were not adequately taken into account in UK Government decision-making and their rights and best interests forgotten, over-looked or not fully considered by policy-makers and politicians. My view is formulated upon my years working in children's rights, working alongside senior civil servants, politicians and others in the sector who seek to influence the UK Government. Whilst different governments have different priorities, the invisibility of children in decision-making is a longstanding endemic problem which is not and was not specific to the UK government at the time of the pandemic.
39. This witness statement cannot comprehensively summarise the plethora of pre-pandemic challenges facing children, who were not given the necessary priority by successive governments and about whom many decisions were made which were detrimental to their rights. However, I can provide examples of those challenges and disadvantages that children experienced from JfKL's direct work with children and young people, its public policy influencing and children's rights monitoring with CRAE members and others in the children's and human rights sectors.
40. In the years preceding the pandemic, CRAE published a "*State of Children's Rights in England*" report which provided an assessment as to how well the UK Government was respecting children's rights and progressing the UN Committee's "Concluding Observations" on the UK in that past year.
41. In December 2020, we reported to the UN Committee to inform its' "List of Issues Prior to Reporting" (LIOPR) as part its examination of the UK Government's progress to meeting its child rights obligations in the CRC. The report covered the period from 2016 until the end of 2020.
42. Both reports were compiled from the evidence received from CRAE members and others leading children's charities and children's rights academics. I exhibit the *State of Children's Rights in England report for 2018* (published March 2019) at Exhibit LK/01 [INQ000650991], and *Civil Society LOIPR Submission to the UN Committee on the Rights of the Child* at Exhibit LK/02 [INQ000176281]. Both reports provide a detailed overview of the challenges facing children prior to the pandemic and the UK Government response to them. The report's findings reflect the experience of the children working with JfKL where legal and other interventions were required to ensure their rights were fully realised. The report also sets out what further steps the UK Government were required to take to effectively implement the CRC.
43. Similar reports were published by CRAE's sister organisations across the UK. The Inquiry therefore may be assisted by considering the following reports written covering

the period 2016 until the end of 2020, which I exhibit below, all these reports were written as part of the civil society reporting to the UN Committee on the Rights of the Child:

- a. Together (Scottish Alliance for Children's Rights) (2020) Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting at Exhibit LK/03 [INQ000649409]
- b. Children's Law Centre (2020) Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting at Exhibit LK/04 [INQ000483306]
- c. Wales UNCRC Monitoring Group (2020) Civil society report to inform the UN Committee on the Rights of the Child's List of Issues Prior to Reporting at Exhibit LK/05 [INQ000649411]

44. The summary of the report for England referenced data which showed that the UK Government had made little progress on important children's rights issues, such as the high numbers of children living in poverty, child homelessness, rising school exclusions and inadequate funding for schools, increasing numbers of children with mental health issues, the conditions for children in prison and how children were treated by the police. It concluded that the UK Government had failed to take forward many of the UN Committee's recommendations in its 2016 Concluding Observations on the UK. CRAE pointed to what were described as "stark" warnings from the UN, many of which had been ignored by the UK Government.

45. In 2019, JfKL's opinion was that the wellbeing of the nation's children and action to realise their rights should have been one of the UK government's top priorities, yet there was clear evidence that children's best interests were being overlooked, and their rights violated, due to systematic failures, which were also compounded by a political focus on Brexit following the outcome of the referendum result in 2016.

46. In this section I answer the following questions:

- a. What were the main challenges facing children before the pandemic?
- b. Did any of these trends disproportionately impact specific groups of children?
- c. Were these challenges understood by Government?

Challenges facing children before the pandemic

47. I set out below some examples of issues faced by children in the various areas that the Inquiry is considering. This is by no means a comprehensive overview, which would be an enormous task. I have taken some examples from the CRAE reports set out

above, but I have not replicated them, and there is far more detail in those reports than in this witness statement.

48. Before going into specific challenges, I wish to highlight that an interconnecting thread across many of them is the devastating impact that the austerity measures taken by the UK Government from 2010 had on children's lives. In the years preceding the pandemic there were, for example, huge funding cuts to key children's services, education, support for families and legal aid. A stark example that illustrates this is an analysis by 4Children which found *'when compared to the level of spending in 2011/12, there has been an overall cut in spending on children's centres and early years services of 20% over the three years from 2012/13 to 2014/15'* (see 4Children (2014) Sure Start Children's Centres Census 2014: A national overview of Sure Start Children's Centres in 2014. London: 4Children). Similarly, analysis by the YMCA found there had been a £1.1bn cut in youth services funding over the past ten years in England, with real-terms expenditure down 74% from 2010/11 (see YMCA (2022) Devalued: A decade of youth service cuts. A report examining local authority expenditure on youth services In England & Wales).
49. It is also important to note, that in 2015, the Parliamentary Joint Committee on Human Rights concluded *'the impact on children of this current period of austerity has been greater than for many other groups'* (see *The UK's compliance with the UN Convention on the Rights of the Child*, HL Paper 144 , 24 March 2015) and in 2016, the UN Committee concluded that it was *"seriously concerned at the effects that recent fiscal policies and the allocation of resources have had in contributing to the inequality in children's enjoyment of their rights, disproportionately affecting children in disadvantaged situations"* (see UN Committee on the Rights of the Child (2016) Concluding Observations on the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/5).
50. It is my view that the disproportionate impact of austerity on children, particularly children from disadvantaged groups, was due to their invisibility in government decision-making due to inadequate children's rights laws and structural processes.
51. Another overarching theme was the significant and widespread cuts to legal aid that impacted children, and their ability to challenge unlawful decision-making.
52. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) overhauled the legal aid system: from April 2013 legal aid was no longer available for employment, education (except for cases of special educational needs), non-asylum immigration, private family law, many debt and housing cases, and most welfare benefits cases.

53. The drastic reduction in legal aid introduced by LASPO remains a key threat to children's rights. A report published in 2018 concluded that since the changes were introduced in April 2013, 'at least 6,000 children each year have been left without access to free legal advice and representation in many areas of civil law – some estimates are as high as 15,000' (*Coram Children's Legal Centre (2018) Rights without remedies: Legal aid and access to justice for children*).
54. The cuts to legal aid were picked up by the UN Committee who called on the UK in 2016 in their Concluding Observations to: 'assess the impact and expedite the review of the reforms on legal aid [...] in order to ensure that such reforms do not negatively affect children's access to justice'.
55. Analysis by Coram of calls to its Legal Advice Service in 2016/17 found that out of the 1,704 calls which dealt with exclusions, a quarter of these related to primary school exclusions where the adviser concluded that the school may 'have acted unlawfully, either by not complying with procedures or because it did not adequately consider the child's special educational needs'. This correlates with our direct work at JfKL and highlights the devastating impact that removing advice and assistance on school exclusion matters from the scope of legal aid can have on children.
56. LASPO also makes it difficult to access SEND appeals. A person can appeal against a local authority's decisions in relation to Education, Health and Care Plans (EHCP). This includes the refusal of a request to assess a child to establish whether they need an EHCP; refusal to prepare an EHCP following assessment; and challenging the contents of an EHCP plan including whether the child will attend a mainstream or special school. The type of legal assistance now available for SEND appeals is "legal help": a restricted type of support that allows families to take early advice and prepare a case, but not to be represented in hearings.
57. Following a judicial review, immigration matters for separated children were brought back into scope of legal aid, but care leavers are excluded from its remit, as are immigration cases for children in families and separated children once they have turned 18.

The health and wellbeing of children

58. This is not an area of focus for JfKL or one where we have significant expertise, but we were concerned that there was increased physical and mental health problems for children and young people, with those from disadvantaged backgrounds faring worse due to increased inequalities in health.
59. In our work we supported children and young people with a variety of mental health diagnoses, and many children who had undiagnosed and unmet needs. There is a

high prevalence of children with communication difficulties and neurodiversity in the criminal justice system which is reflected in our client group. Many of our clients had undiagnosed mental health conditions or neurodiversity. With the benefits of publicly funded representation, we were able to commission assessments and obtain a diagnosis. Anecdotally, we observed significant obstacles for our clients to then access mental health services or additional support.

60. Our direct work with children and young people was reflected in national statistics, which showed that in 2017, one in eight children between five and 19 years of age had a mental health disorder; and that the number of referrals to Child and Adolescent Mental Health Services had increased by 26.3% in the five years leading up to 2018.

Education, play and leisure activities

61. We supported many children who had been excluded from school either temporarily or permanently, and sometimes informally excluded. We also supported many children who did not have adequate support for their special education needs, or an EHCP.
62. I consider the key challenges for children and young people in education included, but was not limited to:
- a. Inadequate school funding, particularly in relation to children with Special Educational Needs (SEN) or those who are disabled, leading to children being without a school place or at a school which did not meet their needs. This was often exacerbated due to delays or challenges in securing EHCPs due to inadequate resourcing at local authority level. The Institute for Fiscal Studies found that total school spending per pupil fell by 8% in real terms between 09-10 and 17-18.
 - b. Increases in school exclusions, which disproportionately impacted different groups of children. For example, the permanent exclusion rate for children with an EHCP was 0.15 compared to 0.06 for those pupils without, whilst the fixed period exclusion rate was 16.11 for pupils with an EHCP compared to 3.57 for those without SEN (Department for Education statistics (August 2020)). Similarly, Black and Gypsy, Roma and Traveller children were disproportionately impacted by school exclusions. In 2019, the national rate of permanent exclusions was 0.1 and the rate of fixed term exclusions was 5.36. For Gypsy and Roma learners these rates were 0.39 and 21.26, for Travellers of Irish heritage they were 0.27 and 14.63, and for Black Caribbean learners they were 0.25 and 10.46 respectively (Department for Education statistics (August 2020)). Children in care were also disproportionately excluded at a rate of 0.10% compared to 0.08% of

all children, whilst 11.44% of looked after children had at least one fixed period exclusion, compared to 2.11% of all children (Department for Education (2018)). We were also particularly concerned about very young children being excluded from school – those in reception and year 1 – and about the increased likelihood of a child becoming a child victim of criminal exploitation or caught up in the criminal justice system following their exclusion from school. A large number of the children supported by our criminal justice team had been excluded from school.

- c. The educational attainment gap between children in poverty and their peers. For example, in 2019 disadvantaged children were nine months behind their peers by Key Stage 2, with this gap widening to eighteen months by the time they reached GCSE age. This gap is even larger for looked after children, who were 29 months behind their peers by the time they sat their GCSEs. Disadvantage is defined by the DfE as a student who has been in receipt of free school meals at any time in the preceding six years. Statistics taken from Education Policy Institute (2020) Education in England: annual report.
- d. High incidence of physical restraint on children with behaviours that challenge, in particular those with a learning disability. A survey of families of children with a learning disability and challenging behaviour reported that 88% had experienced physical restraint, with 35% reporting that this happened regularly. This kind of intervention is particularly prevalent in young children, with 52% of cases reported relating to children aged between 5-10. These statistics are taken from The Challenging Behaviour Foundation and Positive and Active Behaviour Support Scotland (2019) Reducing Restrictive Intervention of Children and Young People.
- e. Cuts to youth services, holiday clubs and holiday play schemes. This created barriers to children being able to play or undertake activities outside of school to support their health, development and wellbeing. The lack of investment in some areas of parks meant that even children who had access to parks where they could go for free were often deterred by concerns over safety, broken equipment and dirty toilets.

Children with access to online content and social media

63. JfKL represented several children, through our criminal defence legal service, who were exposed to online harm and abuse. We obtained judicial clarification around the lawfulness of recording and retaining an allegation that a child had committed a

criminal offence by sending an intimate picture of himself to another, arguing that he was the victim rather than a perpetrator of a crime: *R(CL) v Chief Constable of Greater Manchester* [2018] EWHC 333 (Admin). In a different case we persuaded the Criminal Cases Review Commission to return a case to the crown court following a guilty plea to possession of indecent images. Our 15-year-old client had been sent the images unsolicited on a website.

64. We were increasingly concerned that we saw incidents of children who were approached by predators online who would send them illegal content or encourage them to watch illegal content and/or request the children send back intimate images of themselves. The prevalence of such behaviour online, and therefore the risks to children being online without supervision or safeguards, would often not be recognised by the children's parents. We are aware of a number of incidents through our criminal work and calls to our helpline where the children were criminalised once the police had become involved. This led to parents not wishing to be entirely open with law enforcement.
65. Anecdotally, we noticed that many children investigated for these types of matters had had no previous contact with the police and had disclosed they felt isolated and spent a long time online.
66. Our direct work with children and young people reflected an increased use of social media and that this was a key challenge. They were exposed to sexual and/or criminal exploitation. We noticed that this had a particular impact on children who felt isolated socially and needed to "escape" into an "online world", which might include those with special educational needs, but also those who had other difficulties in their daily lives.

Children looked after and care experienced

67. Whilst this is not an area that JfKL worked on directly, I am aware that there were increasing levels of neglect and abuse in the period before the pandemic, with child protection enquiries increasing 122% between 2009-2010 and 2016-2017. The number of children in care was also rising, with 75,420 looked after children in England in 2018, a rise of 4% from the previous year. The Care Crisis Review (Care Crisis Review: options for change (2018) London: Family Rights Group) identified a lack of early intervention, lack of resources and increased poverty as contributing factors. Additionally, from 2015 to 2019 there was a rise in the number of older children entering into care, with the proportion of children in care aged 10 to 15 increasing by 18% in this period and by 21% for those aged over 16 (Statistics taken from Department for Education (2019) Children looked after in England including adoption: 2018 to 2019). This rise was due to huge cuts to early intervention services, noted

above and Department for Education (2019) statistics which shows cuts to funding for local authorities' children services, totalled £2.2 billion from 2010-2020. As a result this meant that social services were often only becoming involved once a crisis point has been reached.

68. JfKL represented and supported several children who were not provided with adequate support by the relevant local authority in line with that local authority's statutory duties. We had concerns about local authorities' abilities to meet their statutory duties towards children given their constrained finances. We saw many examples, through our case work, where children were not provided with suitable or sometimes any accommodation, leaving them in unsuitable housing, such as unregulated B&Bs, or leaving them homeless. This was particularly the case for young homeless care leavers, who in order to receive 'priority need' for housing also had to prove additional vulnerability, despite the fact that being care experienced clearly meant these were vulnerable young adults. It was for this reason that JfKL also had an emergency hardship fund to prevent children we were working with from becoming street homeless.
69. Through our young people-led Change it! campaign, we were also aware of families, being housed in B&B accommodation for long periods of time, in breach of the statutory limit, which did not meet the needs of the children and had a detrimental impact on their mental and physical health and education. CRAE launched a "Change It!" campaign in 2015, which was aimed at stopping children being housed in bed and breakfast accommodation for longer than the six week limit.
70. Another key issue we frequently came across in our case work was local authorities accommodating homeless 16- and 17-year-olds under homeless legislation or section 17 of the Children Act 1989 rather than section 20, which meant they were not 'looked after' within the meaning of section 22 of the 1989 Act. This meant they missed out on care entitlements as well as leaving care support when they were older. This was happening despite repeated judgments clarifying the obligations of local authorities in this area, most notably *R (G) v Southwark LBC* [2009] UKHL 26. It was for this reason that we also often represented young care leavers to ensure that they could receive retrospective children in care status to ensure they were provided with adequate support by their local authorities, who often misunderstood or did not apply their statutory duties.

Children in contact with the criminal justice system, including children in custody

71. JfKL represented numerous children and young people in contact with the criminal justice system where their rights were frequently overlooked. In addition to representing children and young people in individual cases, we also took a number of strategic cases including issues relating to the disclosure of childhood criminal convictions (*R(P,G,W) v SSHD &SSJ* [2019] UKSC 3); the use of children as covert human intelligence sources (*R(Just for Kids Law) v SSHD* [2019] EWHC 1772 (Admin)); the right of children to intermediaries in criminal trials (*R(TI) v Bromley Youth Court* [2020] EWHC 1204 (Admin)); and a number of cases involving when courts should grant child defendants anonymity. We were also undertaking policy work about the treatment of children by the police, including the use of spit hoods, police use of force and overnight police detention.
72. In 2015, we launched a campaign called Nochildincells. We provided training to the police and local authorities about their respective duties towards children who had been arrested. We worked with the police and other bodies to reduce the number of arrests and the time children spent in police cells, especially overnight. We brought a series of legal challenges against local authorities for failing to meet their statutory duties to ensure that there was adequate alternative accommodation for children who had been arrested. These local authority failures led to thousands of children (some as young as 10 years old) annually being held overnight in police cells in breach of the statutory duties. The situation has led to a number of criticisms from government, and the Court of Appeal made a declaration in *R(AR) v LB Waltham Forest* [2021] EWCA Civ 1185 that the local authority had breached its statutory duty in failing to ensure an adequate system to accommodate such children.
73. We were concerned not only about the prevalence of children in prison, but that the institutions that the majority of children were held in – Young Offender Institutions (YOIs) and Secure Training Centres (STCs) – were not safe places for children to be. The majority of children in the custodial estate are held in YOIs, with a much smaller proportion in STCs, and some in secure children's homes (SCHs). SCHs are used to hold very young or vulnerable children who are in youth detention, and also children who are detained on welfare grounds under the Children Act. We had concerns about SCHs too, but our particular concern about the safety of children focused on YOIs and STCs not being safe places for children. On the eve of the pandemic (February 2020) there were a total of 852 children in custody with the majority (637) in YOIs, and 120 in STCs (Youth Justice Statistics, from Youth Justice Board). Government statistics showed that 5,400 Restrictive Physical Interventions took place in the year ending March 2018, which represented a 20% increase from the previous year, and there were nearly 6,600 use of force incidents across eight STCs and YOIs, which

represents an average of 52.4 incidents per 100 children per month (taken from Youth Justice Statistics 2017/2018 England and Wales, from Youth Justice Board/Ministry of Justice, published 31 January 2019). The use of segregation in youth custody was also continually rising throughout the period 2014-2018, whilst, in the same period, the average length of segregation doubled from eight to 16 days (see Children's Commissioner Report on the use of segregation in youth custody in England dated October 2018). From 2017-2022, Ofsted, the Care Quality Commission and HMIP rated all three STCs as 'requiring improvement to be good' or 'inadequate' – inspectors reported specific concerns regarding children's safety and welfare, this led to the eventual closure of both Medway STC and Rainsbrook STC. These closures increased pressures on Youth Offending Institutions that were previously considered less suitable for children with complex needs, with one third of children moving to YOIs following closures (taken from National Audit Office (2022) Children in custody: secure training centres and secure schools). Survey of children found that 43% had felt unsafe in their current YOI, with 19% feeling unsafe at the time of the inspection. Additionally, even accessing basic amenities was a problem in some institutions, with only 60% of boys surveyed at Feltham prison saying they could have a shower every day. These statistics come from HM Chief Inspector of Prisons for England and Wales (2018) Annual Report 2017–18. We considered the state of child prisons to be so unsuitable and dangerous for children that in 2019, we launched a joint campaign co-ordinated by Article 39, to end child imprisonment.

74. We consider some of the key challenges facing children in terms of youth justice were:

- a. Children from Black and other racialised groups were disproportionately impacted throughout the system – more likely to be stopped and searched, experience police use of force, more likely to be convicted of a criminal offence, and far more likely to be denied bail or receive a custodial sentence.
- b. Children in care or from care-experienced backgrounds were also far more likely to be criminalised for a variety of reasons, including children's homes reporting incidents to the police that would not otherwise warrant police attention in a home environment. Our joint guide (in partnership with the Howard League for Penal Reform) on representing children at the police station highlighted how children in residential care are around ten times more likely to be criminalised than other children.
- c. Increasing numbers of children were victims of modern slavery, including child victims of criminal exploitation and challenges in ensuring they were properly safeguarded. The UK Government estimated there were more

than 4,000 children in the UK who were victims of modern slavery in 2018. This was based on referrals to the Single Competent Authority through the National Referral Mechanism and likely to be an underestimate.

- d. The lack of a child-centred approach to policing, including the use of force on children, although there were some positive initiatives to address this.
- e. Lack of appropriate and expert support and legal representation to navigate the criminal justice system.
- f. Punitive criminal records regime that prevented children from moving on from past mistakes.
- g. Conditions in child prisons which meant that it was not a safe place for children, let alone a rehabilitative one.

Children in contact with the immigration system

75. Our immigration caseworker supported children and young people on a range of complex issues relating to their legal status. Despite the Windrush scandal and the media focus on the UK Government's 'Hostile Environment' immigration policy, we found that the situation facing young people without permanent residency status remained as hostile as ever. We therefore worked with children and young people on a wide variety of matters. This included supporting children who had lived in the UK from a young age, and who had known no other home, to complete long and complex applications for leave to remain and citizenship. Our immigration solicitor also worked collaboratively with the Education and Community Care team to ensure that social services exercised their duty of care towards our immigration clients.

76. The Brexit referendum, raised important and worrying questions for EU children living in the UK, including those in care and those with complex family arrangements. We therefore started to advise many children of EU nationals on applications for settled status. The issues we saw in our direct work were very much reflected in the evidence CRAE received as part of its child rights monitoring work. Evidence showed that migrant and asylum-seeking children, especially the most vulnerable, continued to struggle to get the support and protection they need (see The Children's Society and Coram Children's Legal Centre (2018) The impact of the 'hostile environment' on children and young people today).

77. Systemic delays in the asylum system were also having a devastating impact on asylum-seeking children, with many waiting 18 months or even two years for a decision leading to high levels of stress and anxiety, affecting children's mental health, education, relationships with peers and their ability to plan for their future. See Elder Rahimi Solicitors (2018) Systemic Delays in the Processing of the Claims for asylum

made in the UK by Unaccompanied Asylum-Seeking Children. In 2017, 56% of asylum-seeking children were given refugee status, and 14.5% were refused. While 386 children were granted a temporary form of leave, having been refused asylum, despite consensus that temporary leave is rarely in children's best interests as it does not provide a durable solution for them. (See Gregg, L. and Williams, N. *Not just a temporary fix: the search for durable solutions for separated migrant children*, The Children's Society and European Commission).

78. Additionally, despite the Home Office's Enforcement Instructions and Guidance listing children as 'unsuitable' to be placed in immigration detention centres, some children continued to be detained (as per The Refugee Council (November 2018) Top 20 facts about refugees and people seeking asylum).

The disproportionate impact on specific groups of children

79. I have highlighted above the ways that some of these challenges disproportionately impacted certain groups of children. In addition, the key factor that cuts across many of these challenges is the significant increase in child poverty in the years preceding the pandemic. JfKL are working closely with Child Poverty Action Group in Module 8 as joint core participants: the Children Rights' Organisations. I am aware of their extensive work and expertise on child poverty and the impacts that it has that is being covered in their statement, and I am not therefore repeating that here, save to say that it was and remains a key children's rights issue.
80. The number of children living in relative poverty in the UK (after housing costs) rose to 4.2 million in 2018-9, (see estimated number of children in relative low-income poverty (i.e. percentage below 60% of contemporary median income) after housing costs. Department for Work and Pensions (2020) *Households Below Average Income 2018/19*) exacerbated by the two-child limit and the benefit cap on the support households receive, regardless of need. Schools were also raising the alarm about children who were relying on free school meals to ensure that they had enough to eat.
81. It is also clear that different groups of children were more likely to experience poverty than others: 21% of children living in a household where at least one member was disabled were living in relative poverty in 2019 (DWP's accredited official statistics, Households below average income: 1994/95 to 2018/19). Additionally, around 50-60% of Black, Bangladeshi and Pakistani children are living in poverty in the UK (Khan, O. (2020) 'Understanding and responding to ethnic minority child poverty, excerpt' in 2020 Vision – ending child poverty for good Child Poverty Action Group) and children in households affected by NRPF also faced high levels of destitution, hunger, and

homelessness (see The Children's Society (2020) *A Lifeline for All: Children and families with No Recourse to Public Funds*).

82. Recommendations in the State of Children's Rights Report for England called for the UK Government to end the freeze on child benefits, reverse regressive social security reforms, such as the two-child limit and benefit cap, and extend eligibility for free school meals alongside providing them during the holidays and at breakfast clubs.

The UK Government understanding of children's rights and impact of the pandemic on children

83. I will now consider the UK Government's response to the pandemic in relation to children, as my organisation does not undertake policy and public affairs work to influence the devolved administrations. I will also comment on some aspects of policing.
84. I do not intend to set out here a full critique of how well different UK Government departments understood the challenges and trends facing children in early 2020 that I have highlighted. A full analysis can be found in *The State of Children's Rights in England 2018* and the civil society reports submitted to the UN Committee to influence its List of Issues Prior to reporting. However, I set out some findings of those reports here.
85. Leading up to 2020, there were several welcome developments that indicate some recognition across UK Government departments of the challenges facing children and the need for targeted responses in specific policy areas. There was clear progress in reducing the number of children in contact with the criminal justice system, with child arrests falling by more than two-thirds (68%) between 2010 and 2017 (see Howard League for Penal reform (2017) *Child arrests in England and Wales: Research briefing*). Additionally, between 2008 and 2018, first-time entrants to the youth justice system dropped by 86% and the number of children cautioned or sentenced fell by 82% (see Youth Justice Board/Ministry of Justice (2019) *Youth Justice Statistics: England and Wales 2017-2018*).
86. The Ministry of Justice launched a review of the use of pain-inducing restraint across all child prisons, and a national protocol was published on reducing the unnecessary criminalisation of children in residential care (see Ministry of Justice, Department for Education and Home Office (2018) *The National Protocol on reducing unnecessary criminalisation of looked after children and care leavers*). Overall, however, urgent reform was still needed to the way children in conflict with the law were treated by the police and criminal justice system. The youth justice system also remained highly discriminatory with Black and other racialised children making up just under half of the

child population in prison (28% Black) for the year ending March 2019 (from Youth Justice Board/Ministry of Justice (2020) Youth Justice Statistics: England and Wales 2018/19.

87. There was welcome progress in terms of the promotion of mental health and healthy relationships in schools, with increasing acknowledgment from the UK Government of the growing crisis in children's mental health. New funding was announced for the Samaritans helpline and a Minister for Suicide Prevention was appointed (see Wearmouth, R. (10 October 2018) 'First Ever Minister For Suicide Prevention Appointed As 'Too Many Suffer In Silence'' Huffington Post). The 2018 Budget also included a commitment to mental health support available in all A&E departments, to mental health crisis teams for children and young people and a 24-hour helpline. But while £300 million was committed to implement proposals in the Green Paper on mental health (see Department of Health and Social Care and Department for Education (2018) *Government Response to the Consultation on Transforming Children and Young People's Mental Health Provision: a Green Paper and Next Steps*), there were concerns these proposals fell far short of the scale of the crisis facing children.
88. The UK Government recognised the impact of social media and digital environments on children's wellbeing and took some steps to regulate emerging harms. It developed an Internet Safety Strategy, and a White Paper was due to set out measures to address harmful and illegal online content (HM Government (2018) Government response to the Internet Safety Strategy Green Paper). This included proposals for a social media code of practice and stronger regulation of online advertising. These initiatives, while still at a formative stage, represented important early efforts to respond to the significant risks children face in digital spaces.
89. Following a judicial review challenge, the UK Government reinstated publicly funded legal representation for unaccompanied and separated children in care enabling greater access to legal advice for very vulnerable children. The commitment to a 'child friendly' National Referral Mechanism, the introduction of an independent panel to review all negative decisions, and the piloting of a revised Independent Child Trafficking Advocates scheme reflected growing awareness of the specific needs of child victims of trafficking although it was only available to one third of local authorities (House of Lords written answer (29 October 2018) HL 10668).
90. However, despite the positive developments highlighted above, overall progress remained limited and piecemeal, and there were many challenges facing children, which remain unaddressed including the cumulative impact of austerity on children, their families and services that supported them. The benefit reforms introduced in the Welfare Reform Act 2012 forced millions of children into poverty blighting their lives.

91. It is my belief that the lack of prioritisation of children's issues relates to structural issues in the mechanisms of UK Government and inadequate legislation relating to children's rights. This, in my view, arises from the fact that successive UK Governments have failed to fully embed the General Measures of Implementation of the CRC, which I expand on below.
92. It is also the case, as others have noted, that the political discourse in 2019/20 was still dominated by Brexit, with the result that children were low on the political agenda. However, these structural issues, that I will go on to explore, were in existence prior to the Brexit referendum.
93. In my view, the structural issues can be broadly summarised into a number of areas:
- a. Distinct rights for children
 - b. Incorporation of the CRC
 - c. Key UK Governmental responsibility for children
 - d. A cross-departmental children's rights strategy
 - e. Assessing the impact of policy legislative or budgetary decision on children's rights
 - f. Taking account of children's views in decision-making

Distinct rights for children

94. Children have distinct rights enshrined in the CRC. This sets out the fundamental human rights that all children (aged 17 years and younger) have, so that every child is able to have a good childhood and develop to their full potential. The UK Government ratified the CRC in 1991.
95. In 2016, the UK Government was examined by the UN Committee on the Rights of the Child - the UN treaty monitoring body for the CRC. In its Concluding Observations on the UK, it made many recommendations for the UK Government to take forward. In May 2017, the UK was examined on all its human rights treaty obligations, including the CRC, as part of Universal Periodic Review. At the end of the process, a government states if it "supports" (or accepts) each of the recommendations or not. It is noteworthy that the UK Government only supported 28% of the recommendations relating to children's rights.
96. For all the rights of all children to be implemented, particular structures, mechanisms and legal frameworks are necessary. These are set out in articles 4, 42 and 44.6 of the CRC and known as the 'General Measures of implementation.' Article 4 obliges States Parties to '*undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention.*' The UN Committee has set out how States Parties can ensure they meet their

obligations under Article 4 in its General Comment no 5, on which I expand below. A key purpose of the General Measures of Implementation is to ensure that children's rights are fully incorporated into domestic law, are taken into account in Government decision-making and embedded across government structures.

Incorporation of the CRC

97. Despite many years of advocacy by my organisation and others, the CRC has not been incorporated into UK law. The direct incorporation of the CRC would see all its principles and provisions brought into UK law through overarching, comprehensive children's rights legislation. It would give real force to children's rights and require both the UK Government and all public authorities to protect and respect children's rights. The directly equivalent example is the incorporation of the majority of rights in the European Convention on Human Rights ('ECHR') into domestic law through the Human Rights Act 1998 ('HRA'), and in particular the obligation imposed by s 6 HRA for public authorities to act in accordance with those ECHR rights.
98. Although direct incorporation is not required by international law, it is a method of implementation favoured by the UN Committee to give full legal effect to the binding commitment made by governments when they ratified the CRC. The UN Committee has repeatedly called on the UK Government to take this step.
99. In its 2002, UN Committee on the Rights of the Child (2002) Concluding Observations on the second periodic report of the United Kingdom of Great Britain and Northern Ireland CRC/C/15/Add.188 Paragraph 9 said:
- "The Committee encourages the State party to incorporate into domestic law the rights, principles and provisions of the Convention in order to ensure that all legislation complies with the Convention and that the provisions and principles of the Convention are widely applied in legal and administrative proceedings."*
100. The UN Committee on the Rights of the Child (2008) Concluding Observations on the third and fourth periodic reports of the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/4, Paragraph 6(a) stated (bold added for emphasis):
- "The Committee, while welcoming the State party's efforts to implement the concluding observations on previous State party's reports, notes with regret that some of the recommendations contained therein have not been fully implemented, in particular: (a) With respect to the concluding observations on the second periodic report of the United Kingdom (CRC/C/15/Add.188), **those recommendations related, inter alia, to incorporation of the Convention in the State party's law**"*

101. In its 2016 UN Committee on the Rights of the Child (2016) Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/5, Paragraph 7(a), said:

“Expedite bringing its domestic legislation, at the national and devolved levels as well as in the Overseas Territories and the Crown Dependencies, in line with the Convention in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law.”

102. The case for incorporating the CRC into UK has been set out in a publication (*“Why incorporate? Making rights a reality for every child”* (2012)) co-authored by CRAE as a steering group member of the Rights of the Child UK Coalition. I do not intend to set out all the arguments here, but the key reasons are set out as follows:

- An overarching and comprehensive children’s rights law would allow sustainable improvements in children’s rights and bring about change for children far more quickly than the current piecemeal approach to reform.
- Incorporating the Convention would prompt the cultural change needed across the UK to ensure children’s rights are meaningful, respected, protected and implemented.
- Incorporating the Convention would require the systematic consideration of all children’s rights in every piece of legislation and policy affecting children.
- Incorporating the Convention would place a binding commitment on public agencies to protect children’s rights.
- Incorporating the Convention would provide a framework for local and national government in making decisions affecting children and provide consistency and accountability in any further moves towards decentralisation and localisation.
- Incorporating the Convention would make it applicable in UK courts, giving children greater access to justice and stronger protection for their rights and entitlements. It would also require judges to ensure cases affecting children in the UK courts are always and consistently interpreted in light of the principles and provisions of the Convention.
- Incorporating the Convention would help to raise awareness of children’s rights throughout society, and among all those working with or for children and young people.

- Incorporation has been successful in other countries, including in other part of the UK as set out below, and while the models used in other countries are different, they provide a benchmark for the UK to work from and build upon.
103. In contrast to the lack of progress at the UK level, significant progress to incorporate the CRC has been made in Wales and Scotland.
104. The Welsh Government formally adopted the CRC as the basis of policy making relating to children in 2004. Children's Rights are now part of Welsh law under Rights of Children and Young Persons (Wales) Measure 2011. This places a duty on Ministers to have "due regard" to the CRC when developing or reviewing legislation and policy, giving appropriate weight to the requirement in the CRC. It gives Welsh Ministers the power to amend legislation, that is within the legislative competency of the Assembly if desirable to give further or better effects to the rights and obligations under the CRC (Section 6 of the Measure). It further makes a Minister responsible for ensuring that people in Wales know about, understand and respect the rights children and young people as outlined in Article 42 of the CRC.
105. The Welsh government has also developed a Children's Rights Impact Assessment (CRIA) to ensure that Ministers comply with the duty, as required by its Children's Scheme, to have due regard and to ensure compliance – further details are set out below.
106. In Scotland, an Act has been passed giving effect to Children's Rights in Scotland: UNCRC (Incorporation)(Scotland) Act 2024 entered into force on 16th July 2024. The Act made the CRC part of the law in Scotland, legally empowering children and young people to claim their rights. The 2024 Act requires that public authorities must not act in a way that is incompatible with CRC requirements, equivalent to the central obligation imposed by the HRA. It also puts a duty on Scottish Ministers to create a Children's Rights Scheme, which will promote accountability and help to ensure that children's rights are embedded in decision-making. In addition, the Act also introduces a reporting duty for listed authorities where reports must be published every three years (including child friendly versions), setting out steps taken to ensure compliance with the CRC, and how they intend to enhance respect for children's rights in the future. The Scottish Parliament is also required to report on its efforts to support children's rights, with both standard and child-friendly versions to be made available.
107. Despite these positive developments in Wales and Scotland, children's rights advocates from the devolved administrations are clear that CRC incorporation is still necessary at a UK level, given that a wide range of policy decisions made on reserved matters have significant impact on the rights of Welsh and Scottish children. Children's

rights organisations based in Northern Ireland also wish to see CRC incorporation into UK law.

Key governmental responsibility for Children

108. A significant concern is the absence of a joined-up approach to taking forward CRC obligations, including ensuring adequate consideration of children's rights and the impact on children and young people is a key part of decision-making across all government departments. This concern has been raised by the UN Committee on several occasions following its examinations of the UK. This is due, in my view, to both a lack of oversight from a key senior individual in the UK Government, such as a cabinet minister for children, as well as a lack of a cross-departmental children's rights strategy. I believe that the lack of senior political leadership on children's rights has resulted in fragmentary implementation of the CRC and decisions that fail to prioritise children as is evidenced in the State of Children's Rights report CRAE's submissions to the UN Committee.
109. In the recent past, there had been a cabinet minister for children: Ed Balls MP was the Secretary of State for Children, Schools and Families from 2007-2010. The Minister of State for Children was able to attend some Cabinet meetings. The Department for Children, Schools and Families deliberately had a wider remit than the Department for Education that replaced it (and preceded it), sharing key policy areas with other government departments, notably poverty, health and youth justice. This was then replaced by the Department for Education in 2010, with a Minister of State for Children and Families who sat under the Secretary of State for Education. In early 2018 the role of Children and Families Minister was demoted from a Minister of State to a Parliamentary Under-Secretary, a junior minister. This has remained the case ever since, apart from a brief interlude in Autumn 2022 - between 7 September 2022 and 27 October 2022 - when the Minister of State (Minister for Schools and Childhood) had responsibility for children.
110. All governments structure their cabinets differently, and it is not my view that even the structure of the cabinet in 2007-2010 was sufficient to ensure that children's rights were always high on the political agenda, but I provide some historical perspective here to give the Inquiry a view of the different approaches available. I also wish to note my concern that the responsibility for children has over time been demoted and now sits within a Department for Education. This has resulted in responsibility for children being in the portfolio of a junior minister, who does not have a seat at the

Cabinet table and does not have the necessary seniority to ensure that children's rights are fully considered across government.

111. It is my view that a junior minister, regardless of the qualities of any individual in that role, is not able to provide the senior political influence and leadership required to ensure that children's rights and best interests are high on the political agenda and are fully taken into account whenever government policy, legislative or budgetary decisions are made.

112. There are approximately 12 million children in England. Their rights, best interests and needs are distinct from adults and encompass more than the policy portfolio of the Department for Education. Having a children's minister in such a department unduly limits the scope of the Minister and means that important issues concerning children, such as playgrounds and play are not within their remit together with insufficient policy influence on issues that impact children such as criminal justice, welfare, health and immigration. These areas include reserved matters which impacts the rights of children in Wales, Scotland and Northern Ireland. It is worth noting that there is also no play strategy for England, unlike, for example in Scotland and Wales.

113. The State of Children's Rights report recommended that a cabinet minister with responsibility for children's rights should be appointed with sufficient resources (see State of Children's Rights in England Report, at page 4). The UN Committee on the Rights of the Child (2003) General Comment No.5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) CRC/GC/2003/527 also emphasises the importance of co-ordination and monitoring of the implementation of the CRC. Although the UN Committee is not prescriptive on how this should be achieved, it has consistently recommended that to achieve this the UK Government should: (emphasis added)

*"Establish structures, **such as a ministerial lead at the national level**...responsible for ensuring the effective monitoring and coordination of all activities related to the implementation of the Convention across all sectors and at all levels."*

114. The UN Committee on the Rights of the Child (2016) Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/5, Paragraph 11, recommended that the UK Government put in place effective mechanisms *"at a high inter-ministerial level with a clear mandate and sufficient authority to coordinate all activities..."*. Yet despite this recommendation, as outlined above, the UK Government demoted the minister for children two years after the Concluding Observations were published. In addition to these recommendations, there has also been growing calls for a cabinet minister for children to be appointed, including in the final report of Independent Inquiry into Child Sexual Abuse, which

concluded that a cabinet minister for children would “*provide a sharper focus within government on critical issues which affect children and would provide the necessary leadership, profile and influence on matters of child protection*” (Independent Inquiry into Child Sexual Abuse (2022), The Report of the Independent Inquiry into Child Sexual Abuse). In May 2023, 52 children’s organisations also called on the Prime Minister to establish a cabinet minister for Children to ensure that children’s rights and needs are represented at the Cabinet table and fully visible in Government decision-making. Despite this, there remains no cabinet minister with responsibility for children’s rights.

Childs Rights Action Plan

115. In its General Comment number 5, the UN Committee has made clear that if ‘*government as a whole and at all levels is to promote and respect the rights of the child, it needs to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention*’. Such a strategy must go beyond statements of policy and principle and set clear, resourced, time-bound actions and a corresponding monitoring framework.
116. Following its examination of the UK in 2016, the UN Committee called for the adoption of comprehensive child rights action plan in England. It also recommended the UK ‘*allocate sufficient human, technical and financial resources, set up clear timelines as well as a monitoring and evaluation framework for the implementation of the strategy*’ and pay particular attention to the most vulnerable groups.
117. Despite the recommendation from the UN Committee in 2016, no children’s rights action plan was developed by the UK Government. There has not been a children’s rights strategy or action plan since 2009.

Assessing the impact of a policy, legislative or budgetary decision on children’s rights

118. When fully and adequately assessing the impact of change for children and young people, the UK Government must apply different considerations because children’s needs are different.
119. Firstly, children have distinct rights. For example, the right to play - set out in article 31 of the CRC - is fundamental for the cognitive, physical, social, and emotional well-being of children and is often a form of exercise. I am aware that the expert report commissioned for Module 2 on children by David Taylor-Robinson, along with his evidence, highlighted the need for children to play as an essential part of their development (please see INQ000280060, and evidence during the Module 2 hearings found in the module 2 transcripts at 4/24/1-19).

120. Second, children are at a developmental stage of life. This means that children have different needs and that negative events have a more significant impact on their physical and mental health and development. We do not adopt the view that childhood should be viewed only as a path to productive adulthood. Childhood is sacrosanct. Children have a right to, for example, have their best interests be a primary consideration, be protected from all forms of violence, and an adequate standard of living to ensure a good childhood.
121. We recognise that policy decisions will have a different impact upon children than adults. For instance, detention in immigration centres is likely to have a more significant adverse impact on a child than an adult – not least arising from restrictions around their right to education, to play and to socialise.
122. It is understood that children experience time in a different way to adults. A short detention period could feel a long time for a child, which could exacerbate mental health issues and compound trauma. As noted above, children are at a developmental stage of life and therefore negative experiences, or trauma caused by being detained for immigration purposes is likely to have a long-term and long-lasting impact throughout their childhood and beyond.
123. Although the DfE did not *adequately* consider children in decision-making, it was evident that there was far less consideration of children outside of this department and where decisions were made that had substantial impacts on their rights. A key example of this is the Welfare Reform Act 2012. In its scrutiny of the UK Government's Welfare Reform Bill, the Joint Committee on Human Rights (see Joint Committee on Human Rights (2011) *Legislative scrutiny: Welfare Reform Bill*, paras 1.35-36) expressed regret that the Bill had not been accompanied by any analysis of compatibility with international instruments such as the CRC, reminding Ministers and officials of its 2010 commitment. In December 2010, then Children and Families Minister, Sarah Teather, made '*a clear commitment that the Government will give due consideration to the UNCRC Articles when making new policy and legislation*' (Department for Education (2010) Publication of the independent review of the Children's Commissioner, written ministerial statement).
124. In my experience, it is common for decision-makers when considering a universal policy to overlook its impact on children. For example, when the Home Secretary approved the use of tasers for all police forces following a trial in 2008, there was inadequate consideration given to children's rights implications. This resulted in the police being able to use Tasers on children. The guidance and training did not, for example, set out a presumption against use with children and young people. In the years that followed, Taser use on children increased year on year. The ex-Home

Secretary, David Blunkett, who introduced Tasers, stated that there was a need to “take a step back” and review the use of Tasers, adding *“For a youngster, 11 years old, a Taser is not in my view an appropriate way of dealing with a situation”* (see The Guardian, “David Blunkett asks police to step back from Taser use”, 25 February 2015). This, I believe, is a clear example of decision-makers failing to consider the specific impacts of their decisions on children, which has then had profound negative impacts on their rights and welfare. A Children’s Right Impact Assessment (CRIA) is a tool that can be used by policy-makers to ensure that children do not remain invisible in policy decisions and ensures that consideration is given to the rights of children set out in the CRC. There are two types of CRIAs - *ex ante* and *ex post* – and both are extremely valuable tools for assessing impact on children’s rights. *Ex ante* CRIAs seek to avoid or mitigate possible negative impacts on children’s rights during the development of laws policies and other decisions, while *ex post* CRIAs (sometimes called Child Rights Impact Evaluations) evaluate existing policies and measures to assess their impact on children’s rights. For the reasons set out above, CRIAs are necessary to ensure that children’s rights are not overlooked and are particularly important to undertake if article 3 of the CRC is to be realised:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

125. European Network of Ombudspersons for Children (2020) “*Common Framework of Reference on Child Rights Impact Assessment: A Guide on How to carry out CRIA*” emphasised the importance of CRIAs for the realisation of article 3:

“The ‘best interests of the child’ is one of four general principles of the UNCRC and is a cornerstone for interpreting and implementing all rights in the Convention. ‘Primary consideration’ means that, when different or competing interests are under consideration, greater weight is attached to what will serve the child or children best. It is difficult to determine whether this duty is being met without child-specific impact assessment, monitoring and post-implementation evaluation processes and procedures being in place.”

126. CRIAs are designed to help government officials and ministers to assess and consider the impact of policy-making and legislation on children’s rights. It can be used by parliamentarians to scrutinise the development and implementation of government policy and legislation and assess whether they are upholding or undermining children’s rights.

127. CRIAs consider policy or legislation through a ‘child rights lens’, using the CRC as the framework for assessing whether they protect and implement the rights included

in the CRC. No policy is child neutral – every policy can directly or indirectly have an impact on the lives of children, either positive or negative. For example, laws, policies or decisions that are not aimed at children but have indirect consequences for them include, for example, social security provision, housing supply and quality, measures on air quality and public transport systems.

128. UN Committee on the Rights of the Child (2003) General Comment No.5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) CRC/GC/2003/527, Paragraph E, as noted above, sets out the need for CRIAs (emphasis added):

*“Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3 (1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). **This process needs to be built into government at all levels and as early as possible in the development of policy.**”*

Self-monitoring and evaluation is an obligation for Governments. But the Committee also regards as essential the independent monitoring of progress towards implementation by, for example, parliamentary committees, NGOs, academic institutions, professional associations, youth groups and independent human rights institutions (see paragraph 65 below).

The Committee commends certain States which have adopted legislation requiring the preparation and presentation to parliament and/or the public of formal impact analysis statements. Every State should consider how it can ensure compliance with article 3 (1) and do so in a way which further promotes the visible integration of children in policy-making and sensitivity to their rights.”

129. UN Committee on the Rights of the Child (2013) General comment No. 16 State obligations regarding the impact of the business sector on children’s rights CRC/C/GC/16, paragraph 78 also sets out the importance of CRIAs:

“Child-rights impact assessments: Ensuring that the best interests of the child are a primary consideration in business related legislation and policy development and delivery at all levels of government demands continuous child-rights impact assessments. These can predict the impact of any proposed business-related policy,

legislation, regulations, budget or other administrative decisions which affect children and the enjoyment of their rights and should complement ongoing monitoring and evaluation of the impact of laws, policies and programmes on children's rights.” (p.21)

130. As does UN Committee on the Rights of the Children in its (2013) General comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) CRC/C/GC/14. Paragraph 99 of the General Comment:

“CRIA needs to be built into Government processes at all levels and as early as possible in the development of policy and other general measures in order to ensure good governance for children's rights. Different methodologies and practices may be developed when undertaking CRIA. At a minimum, they must use the Convention and its Optional Protocols as a framework, in particular ensuring that the assessments are underpinned by the general principles and have special regard for the differentiated impact of the measure(s) under consideration on children. The impact assessment itself could be based on input from children, civil society and experts, as well as from relevant Government departments, academic research and experiences documented in the country or elsewhere. The analysis should result in recommendations for amendments, alternatives and improvements and be made publicly available.”

131. Further the UN Committee on the Rights of the Child (2008), The Concluding Observations on the third and fourth periodic report of the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/4, Paragraphs 18 and 19 (emphasis added):

*“The Committee notes with appreciation the increase in expenditures on children in recent years. Nevertheless, the Committee is concerned that the increases are not sufficient to eradicate poverty and tackle inequalities **and that the lack of consistent budgetary analysis and child rights impact assessment** makes it difficult to identify how much expenditure is allocated to children across the State party and whether this serves to effectively implement policies and legislation affecting them.*

*The Committee recommends that...**Child rights impact assessment should be regularly conducted** to evaluate how the allocation of budget is proportionate to the realization of policy developments and the implementation of legislation.” (p.5)*

132. The UN Committee on the Rights of the Child (2016) Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland CRC/C/GBR/CO/5, Paragraph 10, recommended that the UK (emphasis added):

*“(a) **Introduce a statutory obligation at the national and devolved levels to systematically conduct a child rights impact assessment** when developing laws and policies affecting children, including in international development cooperation;*

(b) Publish the results of such assessments and demonstrate how they have been taken into consideration in the proposed laws and policies.”

133. There have been a number of reviews of CRIAs by various bodies, including UNICEF UK. Its report (Child Rights Impact Assessment (CRIA): A review of comparative practice across the UK) concludes that there is no single, global model of CRIA in place. It suggests that individual governments can develop a model best suited to their specific requirements, which addresses local priorities and objectives but that the CRIA tends to follow a set of steps or stages common across Impact Assessment (IA) practice: screening/initial assessment; scoping; data collection, evidence gathering and stakeholder consultation; assessing the impact; options and recommendations; monitoring and review. (p.3)

134. CRAE has also published a briefing on how to use CRIAs to improve policy making: Using Children’s Rights Impact Assessments to improve policy making for children and sets out the following points:

“CRIAs are an essential tool to help ensure that Government policy, legislation, programming and budgeting are consistent with children’s rights standards...(p.1)

To date very few have been carried out by the Westminster Government using their CRIA template developed in 2018 but Scotland and Wales each have their own form of mandatory CRIAs. (p.4)

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CRIAs provide an opportunity to engage children in public policy and decision-making processes. The UN Committee has recommended that CRIAs should be based on ‘input from children, civil society and experts, as well as from relevant government departments, academic research and experiences documented in the country or elsewhere’. The evidence base for CRIAs must not only include reliable qualitative and quantitative data, but also the views and experiences of children affected by policies and other measures. (p.4)”

135. Despite the UK Government’s obligations under the CRC, and the numerous recommendations it has received from the UN Committee in its Concluding Observations, prior to the pandemic there had been no progress towards a statutory obligation on UK Government officials and Ministers to conduct CRIAs in all policy areas affecting children. This is despite similar requirements in Wales and Scotland.

136. As noted above, the Rights of Children and Young Persons (Wales) Measure 2011 imposes a duty on Welsh ministers to have due regard to children's rights as expressed in the CRC. Part One of the Children and Young People (Scotland) Act 2014 requires all Scottish ministers to give better or further effect to the requirements of the CRC; take account of the relevant views of children of which they are aware; promote public awareness and understanding of the rights of children; and report every three years to the Scottish Parliament on what they have done to fulfil these duties.

137. A report by the Wales Observatory on Human Rights of Children and Young People "Evaluation of the Welsh Government's Child Rights Impact Assessment procedure under the Children's Rights Scheme pursuant to the Rights of Children and Young Persons (Wales) Measure 2011" (2015) describes the procedural compliance and substantive assessment processes:

"Section 1 of the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on the Welsh Ministers to have 'due regard' to specified provisions of the United Nations Convention on the Rights of the Child when exercising any of their functions. The Welsh Ministers have published a Children's Rights Scheme setting out arrangements they have made for securing compliance with the due regard duty. The Scheme includes a formal six-step Child Rights Impact Assessment procedure (CRIA) to predict the likely impact of legislation or policy on children's rights. CRIA is carried out ex ante as part of Welsh Government decision-making processes. The CRIA six-step procedure is:

- *Step 1- What's the piece of work and its objective(s)?*
- *Step 2 – Analysing the impact.*
- *Step 3 – How does the work support and promote children's rights?*
- *Step 4 – Advising the Minister and Ministerial decision.*
- *Step 5 – Recording and communicating the outcome.*
- *Step 6 – Revisiting the piece of work as and when needed." (p.4)*

138. An academic review into the incorporation of the CRC by Ursula Kilkelly, Laura Lundy and Bronagh Byrne (2021) (*Incorporating the UN Convention on the Rights of the Child into National Law International Journal of Law, Policy and the Family*) discussed the use of CRIAs across the UK and in Wales and found that:

"As a policy tool, CRIA is consistent with the Committee's recommendation that all policy, legislative and budgetary proposals and programme decision which will have an impact on children should be assessed in advance for compliance with the CRC. In 2015, the Welsh Government claimed that the due regard duty had contributed to

embedding children's rights in policy and to the emergence of an 'ingrained culture of thinking about children's rights in the Welsh Government' (p.111). These claims are partially confirmed by an evaluation of CRIA carried out by the Welsh Government in 2015, which found that the procedure had contributed to increased visibility and awareness of the CRC within the Welsh Government and had contributed to some better policy output for children. (p.112)"

139. More positively, in 2018, the CRC Action Group worked in partnership with the DfE to develop a children's rights e-learning training tool for government officials and a template to assist civil servants to carry out CRIAs. This was accompanied by a written parliamentary statement by the then Children's Minister, Nadhim Zahawi, which reaffirmed *"the value that this Government places on the UNCRC and our ongoing commitment to give due consideration to the UNCRC when making policy and legislation"* (20 November 2018 Statement UIN HCWS1093).

140. However, despite these progressive steps, in the years following, they did not result in CRIAs being systematically carried out for all policy and budgetary decisions that may directly or indirectly impact on children. Our *'England Civil Society Submission to the United Nations Committee on the Rights of the Child to inform its List of Issues Prior to Reporting'* concluded that:

"Despite the Government's commitment to: 'give due consideration to the UNCRC articles when making new policy and legislation', in practice this is largely absent. Very few CRIAs have been carried out since the template was published and most are not published."

141. It is for this reason, that in the years leading up to the pandemic, my organisation consistently called for progress on statutory child rights requirements on UK Ministers, which would also necessitate the completion of CRIAs.

Listening to Children

142. Taking account of the views of children in all decisions affecting them is a fundamental principle of the CRC. Article 12.1 requires States Parties to:

"assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

143. UN Committee on the Rights of the Child (2009) General Comment No.12 The right of the child to be heard CRC/C/GC/12, Paragraphs 1 and 2 states: (emphasis added)

"Article 12 of the Convention on the Rights of the Child (the Convention) is a unique provision in a human rights treaty; it addresses the legal and social

status of children, who, on the one hand lack the full autonomy of adults but, on the other, are subjects of rights...

The right of all children to be heard and taken seriously constitutes one of the fundamental values of the Convention... The Committee on the Rights of the Child has identified article 12 as one of the four general principles of the Convention, the others being the right to non-discrimination, the right to life and development, and the primary consideration of the child's best interests, which highlights the fact that this article establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights."

144. The UN Committee goes on to stress that (Ibid., paragraphs 12 and 13):
(emphasis added)

*"The views expressed by children may add relevant perspectives and experience **and should be considered in decision-making, policy-making and preparation of laws and/or measures** as well as their evaluation. These processes are usually called participation. The exercise of the child's or children's right to be heard is a crucial element of such processes. The concept of participation emphasizes that including children should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children's lives."*

145. While in the years leading up to the pandemic attitudes shifted on the importance of engaging with children, there was still a long way to go before it could be considered that listening to, and acting on, children's views and opinions was the norm. Prior to 2020, there were positive initiatives to help ensure that children could have their views taken into account. For instance, the Department for Culture Media and Sport provided funding to civil society for a youth voice steering group and running a national Youth Inspectors and Commissioners Group (see Department for Digital, Culture Media and Sport (2018) Civil Society Strategy Youth Voice Programme Youth Voice Groups Grant Scheme: Application Guide). However, despite such efforts, taking account of children's views in national policy making was patchy, with particular groups of children less likely to have their voices heard such as children under 10 years and disabled children. Child-friendly information on national decision-making and policy proposals were also rare. Such an approach not only failed to implement children's participation rights but also meant that issues concerning children were often seen through the lens of adults, parents or families.

146. In terms of the police specifically, there were a number of good initiatives within the police to try and ensure that children's rights were better respected. A good example of this is the National Police Chief's Council's (NPCC) Strategy on the Policing

of Children and Young People published in 2015 and recently updated. Another positive development was the publication of the NPCC strategy on custody published in 2017. Welcome initiatives to end the overcriminalisation of children in care were also introduced by some police forces. These were positive developments, which recognised the vulnerability of children within the criminal justice system and encouraged officers to consider the rights and needs of the children they came into contact with and ensure that they treat children as children first and foremost. However, a challenge remained to ensure that these principles were operationalised by officers and led to behaviour change. Despite these positive strategies we still saw in our case work and nationally through our policy work that children continued to be subject to unnecessary use of force or arrest and held for far too long in police cells.

Part C

Impact of the pandemic and the UK Government's response on children and young people

147. I now turn to what JfKL considered to be the main challenges facing children during the pandemic. JfKL, CRAE and Save the Children wrote a joint report entitled "*What About the Children?*" (published September 2023). The report was a significant literature review of reports into the impact of the pandemic on children, an analysis of key work undertaken by us and other children's organisations during the pandemic and a consultation with children and young people. It sets out our key concerns about what happened to children in the pandemic and the key challenges and impact upon them. I exhibit the report at Exhibit LK/06 [INQ000282332]. Whilst I set out additional thoughts below, these should be read in conjunction with that report.
148. CRAE also produced a Civil Society Report to the UN Committee on the Rights of the Child in 2022. This report looked at how children's rights had regressed in the period 2016-2022, with a particular focus on the impacts of the COVID-19 pandemic. This report was endorsed by 97 children's charities across England. We concluded that the pandemic had exacerbated existing inequalities and contributed to the educational attainment gap for disadvantaged children widening for the first time in 12 years. I exhibit this report at Exhibit LK/07 [INQ000649413], and as above, I request that this report be read alongside my statement.
149. As stated in Part B, I cannot speak for all children in England. The experiences and thoughts I share below are based on the cohort of children we directly worked with and the experiences that we captured through our policy work and analysing the data and research that has revealed the impact of the pandemic on children. We believe there are other challenges that are not covered either in this witness statement or in the reports referred.
150. During the pandemic, we prepared a number of detailed briefings, letters and submissions to government and parliament. These included significant detail on the impact of the pandemic on children and their rights. While I have covered these in Part D of my statement, I reproduce below selected evidence from these concerning the impact of the pandemic and the UK Government's response on children and young people. In Part D below I also outline the recommendations we made to the UK Government and parliament and further engagement, including meetings and litigation.

Children in contact with the criminal justice system (including treatment of children in custody)

151. The Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020 and The Secure Training Centre (Coronavirus) (Amendment) Rules 2020 resulted in children in detention being subjected for lengthy periods to poor in-cell provision, withdrawal of support services, and deprived of education, visits and contact. This was evidenced in HM Chief Inspectorate of Prisons for England and Wales (2020) Annual Report 2019–20; and Alliance for Youth Justice (2022) '*The Youth Justice response to the Covid-19 Pandemic*'; and Harris, M and Goodfellow, P. (2022) "*Crises and crossroads for the children's secure estate: Resisting child imprisonment and rethinking youth custody post-pandemic*". As noted in Part B, there was already significant concern, including from HMIP, about the treatment and safety of children in prison.
152. An Explanatory Memorandum set out a minimum restricted regime for children (some as young as 12) held in STCs with a reduced time out of cell from the usual 14 hours to only at least 1.5 hours a day. This policy permitted solitary confinement for some of the most vulnerable children in society - a high proportion of children in prison are care experienced, have special educational needs and serious mental health issues. It is also important to highlight that youth justice statistics for 2020-2021 show that racialised children make up the majority (53%) of those imprisoned; 29% are Black. Despite concerns being raised by children's charities (such as a letter to the Rt Hon Robert Buckland QC MP Lord Chancellor and Secretary of State for Justice Ministry of Justice on 18th March 2020) and the then Children's Commissioner for England published response, the UK Government failed to take steps to amend these Regulations that caused harm to children or release children from prison.
153. We were concerned about the over-policing of children during the pandemic. Police increasingly detained children who were in breach of, or perceived to be, in breach of lockdown rules. Our case work with children indicated that the police were more likely to stop children outside who they perceived to be less out of their homes for a "good reason." This was exacerbated by the problem that the guidance restrictively defined exercise as things like running and yoga. I am aware of one teenage boy who was sent home for skateboarding. We had expected – incorrectly – that the police would consider carefully whether it was proportionate to arrest children during a pandemic, as taking a child to a police station involved close contact with others contrary to the UK Government's guidance. We were also concerned about the lack of safety measures put in place in police stations.
154. Our Co-Lead and co-founder, Aika Stephenson, regularly attends the police station to represent children who have been arrested. In the first three weeks of the national lockdown (from 23 March 2020) she did not attend any police stations in

person as it was not considered safe to do so. Nonetheless, several children were arrested and taken to police stations for the types of offences set out below. Ms Stephenson was required to advise and represent detained children using video-conferencing facilities, such as Teams. It is very difficult to build trust and rapport at a police station with a detained child, exacerbated by using remote technology. The solicitor's role is to ensure that the child understands the offence for which they have been arrested, the process of an investigation, the meaning of the police caution and their legal rights. The child may need to make significant decisions about what to say in interview. Ms Stephenson would often use role play and various different communication methods to ensure that children, especially those with communication difficulties understood their situation. This is extremely challenging – if not impossible – through a video-conference call, and she was concerned about how much her clients understood and/or trusted her.

155. Many police stations did not have video-conferencing facilities and those that did usually required a police officer to use their own laptop, which would not be left with the child unsupervised. Ms Stephenson found that she was in a situation where she could only speak to her client on the telephone or over video but with a police officer present, making it impossible to take instructions. All of this reduced the possibility of meaningful representation at the police station.
156. After the first three weeks of lockdown, solicitors were often requested to attend police stations in person for young or vulnerable detainees. Ms Stephenson attended many police stations in the London area during this time. She noticed a huge variation in hygiene measures with some not even providing handwipes or sanitiser or not wiping down the table in the interview room between interviews. In some police stations there were no noticeable adaptations to help with controlling the spread of Covid.
157. Our legal team were surprised that many police forces operated a “*business as usual*” approach and arrested children for relatively minor offences, without considering alternatives such as summonses or conducting interviews in alternative locations to avoid the spread of Covid 19.
158. To illustrate our legal team's experience can provide the following examples which occurred in March- April 2020:
- We represented a 15-year-old who was arrested for being in a stolen vehicle and taken to a police station. The solicitor's enquiries revealed that no pandemic-related safety measures (such as cleaning interview rooms or social distancing) were in place and there were no facilities to enable the solicitor to dial into the interview (on video or via the loudspeaker function on a telephone). The solicitor

eventually negotiated disclosure by email and was able to give advice to the child over the telephone. The child was in police custody, in a cell, for a number of hours, interviewed without a lawyer before later the police confirmed that they would take no action.

- We represented a 17-year-old who was arrested in the early evening for possession of cannabis. He was taken to a police station on the other side of London to his home as the local custody suite was full. The police insisted on interviewing him despite this being contrary to the Interview Protocol between National Police Chiefs' Council, Crown Prosecution Service, The Law Society, Criminal Law Solicitors' Association and London Criminal Courts Solicitors' Association, a copy of which I attach at Exhibit LK/08 [INQ000084063]. He was interviewed at 1am in the morning. His lawyer was able to be present by dialling into the interview on the telephone which was on loudspeaker. He was released under investigation at 6am the next day. This appears to be a hugely disproportionate risk to both the child and his family's health as well as those involved in his arrest and detention. Our understanding is that not all officers were in masks or gloves, and this was particularly concerning as the child involved is asthmatic.
- Our clients were detained when police stopped a vehicle in which they were travelling. The police had seized cannabis and cash. The police arrested three persons in the car despite nothing being found on two individuals. We were able to conduct a video interview for both of our clients. The 17-year-old was kept in a police cell overnight and released under investigation the following day. The 18-year-old spent two nights in a police cell, due to also being in breach of his bail conditions on another matter and was released under investigation two days later. Both siblings have been deemed victims of modern slavery/criminal exploitation and are incredibly vulnerable.
- In another case, our 17-year-old client was arrested at 2am whilst out of his house having been found with a white powder on him. The police thought the white powder was cocaine, arrested him and took him to the police station where he spent the rest of the night. The police later confirm that the substance was amphetamine and charged him with possession of a class B drug. In light of the ongoing covid-19 pandemic and his age, we would have expected the police to have taken him home to his parents and arranged for a voluntary interview at a later date. We were able to conduct a video interview, and our client was released under investigation.

- A 15-year-old was arrested for an allegation of burglary which had occurred ten days prior to his arrest. The allegation was made by a 30-year-old male who we understand had been allowing a number of different youths to access his house to smoke cannabis, in exchange for them buying him some cannabis and food. Our client had been going to the house a lot as he is allowed to smoke cannabis there with his friends. The 30-year-old had previously told our client to let himself in through the window when he was locked out of the property. The 30-year-old reported that someone had entered his house through the windows without permission. The police investigated and identified our client as a suspect. Our client was arrested whilst inside the house and taken to the police station, where he was detained overnight. We were able to conduct a video interview. Our client was released under investigation the following day.
- Our 16-year-old client was accused of spitting at a bus driver. There was significant evidence linking our client to the offence. Rather than issuing a postal requisition order requiring him to attend court, the police arrested our client. Following his arrest and detention, they decided that an interview would not be appropriate. The police were concerned that due to covid-19 and given the allegation of spitting, their welfare may be at risk. No consideration was given to the welfare of the young person. Our client was charged and then released. It was not clear what the purpose of the arrest was.

159. Our casework indicated that children were arrested and detained in cells for more minor offences. Outside of a pandemic, given the NPCC guidance (National Strategy for the Policing of Children & Young People), alternatives could and should have been considered. It was therefore of real concern that the superfluous detention of children and young people continued even in the early months of the pandemic, indicating how unnecessary risks were taken by police officers and custody sergeants on the ground at a time of unprecedented risk to the public.

160. Additionally, the COVID-19 pandemic exacerbated a criminal justice system that was already struggling with long delays between offence and trial date. It is vital that criminal cases involving child defendants are heard as close to the date of offence as possible, otherwise they will have difficulty in relating the sentence to the offence. In June 2020, we were alarmed to hear of many cases, for those children both on remand and bail, being adjourned to dates in late 2021. This will obviously have had significant and long-term implications for a child's well-being.

161. We were also concerned about the impact on those who committed offences as children but were not proceeded against until they have turned 18, a phenomenon

that was further exacerbated by delays caused by COVID-19. The youth justice system gives children some special protections, for example, they are more likely to be diverted away from the formal criminal justice system through diversion schemes and their welfare must be considered by the various agencies involved. However, those who have committed offences as children, but are not dealt with until they have turned 18, are not able to benefit from those legal protections. This is contrary to what is stipulated by the UN Committee.

162. During the pandemic there was no principle to fast-track charging decisions in the cases of children, including those approaching their 18th birthday, a majority of whom are 'Released Under Investigation' for an unspecified period. This is despite the inequity which will follow if they are prosecuted once they have become adults. For their peers who committed an offence at the same age but who were dealt with before their 18th birthday, the outcomes will be vastly different. The damaging consequences of turning 18 between the date of the offence and prosecution include loss of anonymity, reduced likelihood of diversion, only being eligible for adult sentences, longer supervision periods (heightening the risk of breach) and much longer rehabilitation periods which reduce employment prospects and prevent people moving on with their lives. These are summarised below:

Loss of presumption of diversion

If someone is under 18 at date of disposal there is a strong presumption in favour of diversion [Crown Prosecution Service (2019) Legal Guidance on Youth Offenders]. Youth cautions are only available to children aged 10-17 inclusive and cannot be given to an 18-year-old regardless of date of offence [Ministry of Justice (2013) Code of Practice for Youth Conditional Cautions]. A young person who is 18 at the time of the disposal can only access adult cautions, and this has implications for the type of support they receive and how it is administered.

Availability of Youth Justice Service (YJS) support

Children given a youth caution are referred to a YJS who can offer interventions and support to reduce the likelihood of reoffending. Once 18, a young person is no longer eligible to be supported and supervised by a YJS, cutting them off from support designed to prevent re-offending. The support of a YJS can make a crucial difference in supporting those who committed offences as children to successfully complete any interventions and to move away from offending.

Adult Courts

A child who turns 18 during a criminal case can continue to have their case heard in a youth court. However, if a child turns 18 before their case gets to court, their case must be dealt with by the adult courts. Despite their age at the date of the alleged offence, defendants in the adult courts do not have access to the modified procedures and physical layout of the youth court, which were designed to help children and young people to understand and participate in the proceedings.

Adult sentences

If a child turns 18 before conviction, the youth court may retain sentence. If a child turns 18 before proceedings start, they can no longer receive youth sentences, regardless of the date of the offence. As a result, they become subject to the purposes of adult sentences which include deterrence and punishment of the offender. This is a significant shift from the sentencing of children and young people, which has the prevention of offending as its principle aim and the welfare of the child as a central consideration [see Sentencing Council (2017) Sentencing Children and Young People: Definitive guideline].

Loss of anonymity

Children who turn 18 prior to conviction lose their automatic right to anonymity during the court process, despite being a child at the age of the alleged offence. While reporting restrictions are automatic in the youth court, this is not the case post 18 where it is discretionary.

163. The following case studies from our experience in or around 2020 highlight the significance of this:

(1) Just for Kids Law represented two 18 years old (co-defendants), both charged with one count of possession of a drug of class B (cannabis) a few months before their 18th birthday. Their first appearance was listed in the adult magistrates' court. JfKL made representations to the CPS on the basis of the disproportionate impact this would have on the young people in light of them having turned 18. They would be dealt with by an adult magistrates' court and would receive adult sentences for offences committed as children. Further, both young people had no previous formal contact with the criminal justice system. Following our representations, the CPS withdrew the charges.

(2) The Youth Justice Legal Centre advice line provided one off advice to 17 years old, who was found in possession of large quantities of class A drugs (MDMA)

further to the police attending his property. The young person had been acting strangely and had damaged some property in the house, so his parents decided to call the police. When the family initially contacted us, they were not planning to have legal representation at the police station interview. We advised against this course of action and emphasized the importance of having specialist legal representation at the police station interview, especially for those who are at such an important age threshold. Given that the incident and police interview took place weeks away from the young person's 18th birthday, there was a real risk that the young person first appearance would be after his 18th birthday and that he would be dealt with under the adult system with only adult sentences available to him.

Eventually, following extensive representations to the police, three days before his 18th birthday the police agreed to issue the young person with a Youth Caution. This is because the offence was out of character, it later became clear that the young person had substance misuse issues and had accrued debts because of this, he had no previous contact with the criminal justice system and the disproportionate impact of a prosecution in light of him turning 18. This disposal would not have been available to the police after his 18th birthday.

(3) Jack [name has been changed] was 17 when he was stopped and searched outside his mum's address and arrested for being in breach of a bail condition not to enter the local authority's area. This was despite several applications from his defence solicitors requesting that this condition be reviewed for it to be more specific to the area linked to the offending behaviour rather than a blanket ban, prohibiting him from seeing his mother who he has a very close relationship with.

Upon being taken to police custody and searched, a cat ring was found in Jack's man bag and he was arrested for possession of an offensive weapon. Jack admitted to being in possession of the cat ring, however he was not aware of it being an offensive weapon and did not intend to use it as such. Following his overnight detention in police custody, Jack was taken to the youth court where his matters were adjourned for consideration of an out of court disposal. Following written representations both to the Youth Offending Team and the Crown Prosecution Service, we were informed that he would not be administered with a youth caution as it was in the public interest to prosecute.

Jack did not attend his adjourned first appearance hearing, which was listed days before his 18th birthday and a warrant for his arrest was issued. Jack was arrested four days after his 18th birthday in Bristol, for county lines related offences. He was Released Under Investigation for these offences and held overnight in police custody to be taken back to court the following morning for the possession of an offensive weapon matter. His matter was remitted to his local court where the matter was initially listed, however he was remitted back to the adult magistrates' court and not the youth court.

Jack suffers from anxiety and depression, has experienced significant trauma as a child including through abuse and neglect, and presents with traits that warrant further investigation as to whether he may have a diagnosis of Autism Spectrum Disorder. He was previously looked after by the local authority and has been known to children services since he was about one year old. At the time of gathering this evidence, he remained homeless and continued to be at risk of further criminal exploitation.

164. We raised the above concerns in our submissions/briefings to Parliament during the pandemic. References are included below to show that this matter was raised in parliamentary evidence and to provide context for what the Government knew or ought to have reasonably known about these at the relevant time:

- a. June 2020, in a joint submission with YJLC to the JCHR Inquiry into The Government's response to COVID-19: human rights implications.
- b. March 2021, in a briefing for a House of Lords' Oral Question *'To ask Her Majesty's Government what steps they are taking to enable children who commit offences to be tried and sentenced according to the youth justice system, and in particular, those who turn 18 before their first court appearance'* tabled by Baroness Sater, March 23rd 2021.

165. The issues we raised above were predicated on the basis that the UN Committee has made it clear that "*child justice systems should also extend protection to children who were below the age of 18 at the time of the commission of the offence but who turn 18 during the trial or sentencing process*" (see UN Committee on the Rights of the Child (2019) General Comment No. 24 on children's rights in the child justice system, paragraph 31); and the research contained in "*Timely Justice: Turning 18 A briefing on the impact of turning 18 in the criminal justice system*" (2020) Youth Justice Legal Centre, Just for Kids Law.

166. Additionally, we were extremely concerned that the increase in video link hearings for child defendants, both during the coronavirus and subsequently, severely compromised children's rights to a fair trial and their ability to effectively participate.
167. As is well known, children in the criminal justice system are some of the most vulnerable in society and often have high rates of additional learning and communication needs, more than half are from deprived households, many with absent parents, and/or have spent time in care. All which make it more difficult for children to effectively participate in court proceedings. The use of video link adds a significant extra layer of difficulty.
168. Similar concerns had been highlighted in a report published in March 2020 (The University of Surrey; Video Enabled Justice Programme: University of Surrey Independent Evaluation (March 2020)) on the evaluation of a tool which enables first appearance remand hearings in the magistrates' court with the defendant appearing by video link. Whilst the Report does not specifically assess the use of video courts in the context of youth proceedings, a number of findings for adult proceedings could well apply or be exacerbated in the context of youth proceedings. The data is complex but highlights some overarching issues with the use of video courts. The findings relating specifically to decreased legal representation, loss of face-to-face contact and potential barriers to building of trust with defendants in the virtual court context should be noted as key concerns in the context of video hearings involving child defendants.
169. We raised this issue in our evidence to the Justice Committee inquiry on Coronavirus (COVID-19): The impact on prison, probation and court systems [June 2020]. This reference is included to show that this matter was raised in parliamentary evidence and to provide context for what the Government knew or ought to have reasonably known about these at the relevant time.

The capacity of children's services to support vulnerable children and young people

170. The pandemic exacerbated existing problems children and young people had contacting children's social services. The care leavers we work with were in need of urgent, practical and financial support to meet basic needs such as food. Local authorities were not always stepping in to provide this, meaning voluntary sector services such as ours had to fill the gap. We saw a sharp increase in demand on our services in relation to discretionary payments needed by young people. Housing also remained a significant concern for care-experienced young people, who are widely recognised to be at greater risk of homelessness than other young people. This experience is reinforced by the UK Government's rough sleeping strategy which cites data from the Combined Homelessness and Information Network (CHAIN) in 2017-18

which shows 11% of people sleeping rough were in care as a child. A survey of 87 care leavers by Centrepoin in 2017 found that 26% have sofa surfed and 14% had slept rough since leaving care.

Problems as a result of COVID-19

171. During the pandemic, children and young people told us of problems they were encountering contacting children's social care services, for example social workers/PAs not responding to calls or visiting young people less (although we appreciate that visits may have had to be socially distanced). We also heard of instances where young people had only been receiving contact from PAs via text message rather than hearing from them by phone. In some cases, social workers/PAs refused to support children and young people with problems they were facing – it was unclear whether this was due to lack of capacity or another reason. One young person who contacted us told us *"Since the pandemic started I have been left to my own devices as my PA left me and I have had no support."*
172. This was exacerbated by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 which changed the duty for social workers to visit children in care every six weeks to "as soon as is reasonably practicable" and made provision that a phone call can take the place of a visit. Independent reviews of children in care were also changed from every six months to "where reasonably practicable." We believed these changes risked contravening Article 25 of the CRC which stipulates that children in care have the right to a regular review of their treatment, way they are cared for and their wider circumstances.
173. At the same time, the children and young people we worked with were dealing with new problems relating to the Coronavirus pandemic, for which they needed support. Those we worked with told us they were facing financial hardship, lack of food, living in cramped or unsuitable environments, as well as the harmful impact on their mental health, which was leaving them feeling isolated, anxious and unable to cope. Being out of formal education, as many were, further compounded children and young people's vulnerability.
174. Children and young people also told us of the ineffectiveness of having to carry out crucial meetings with social services via online platforms, e.g. child protection conferences. This made it difficult for young people to get their point across effectively and they were not able to be supported in person by our advocates.
175. One area in particular where we saw a sharp increase in demand on our services as a result of a gap in statutory capacity was in relation to discretionary payments needed by young people, including care leavers to pay for basic necessities.

On 18th April the Government announced an additional £1.6bn for local authorities to help them address pressures arising from COVID-19. The Coronavirus (COVID-19): guidance for children's social care services stated that "we would encourage local authorities to utilise some of this funding to provide discretionary payments to care leavers to cover items such as food, utilities and rent during this period, if required." However, during the lockdown, JfKL needed to make payments to care leavers who were not able to obtain funding through their local authority leaving care team, to cover basic items including food, gas/electricity and essential household items and nappies for babies.

176. For example, from when the lockdown was announced on 23rd March to 31st March, our hardship fund made ten payments to young people to cover essential items; during April we made a further seventeen payments. This was much higher than previous months: five in December, two in January, none in February. (Please note: not all payments made were to care leavers as our scheme can be accessed by young people more generally.)
177. Hardship fund requests we received from care leavers highlight the particular ways in which statutory support fell short during the pandemic. All of the young people described below are care leavers:

One young person who has two young children had no money for food and her local authority was unable to send any money to her due to staff shortages in the finance department. She was also unable to get in contact with her PA despite spending a morning trying to get through.

Another young person was reliant on an abusive ex-partner to bring her food whilst in self isolation. A young person living in university accommodation and having to self-isolate due to COVID-19 symptoms also made a request to us as she was running out of food and had very little money.

In the case of another young person who did not have food, the local authority arranged delivery of a food parcel, however this did not arrive; the reason for this is unclear. A young person with two young children contacted her PA as her washing machine had broken down and she needed money to do washing at a launderette, however, she was told by her PA that the local authority would not give her the money for reasons that are unclear.

178. As these examples indicate, many care leavers were in an extremely precarious financial situation, with benefits as their only source of income, often having to rely on food banks and schemes such as ours. It was unacceptable that local authorities were not stepping in to meet their urgent needs even after they have been provided with funding to do so.

Housing and accommodation for care leavers

179. We were also seeing a lack of clarity around carrying out homelessness assessments, in part due to a lack of contact with staff, and a lack of capacity of housing services and children's services to accommodate homeless children. The young people we support told us of increased difficulties in getting hold of housing staff as they were working remotely and young people were struggling to get hold of anyone to help them with their housing needs. Some young people were due to move, and this had been put on hold, or wanted to move, because their accommodation was not safe or suitable for their needs, but were unable to as their local authority had stopped the process.

180. We also heard instances of young people being placed in unaffordable accommodation during the pandemic, for example one homeless young person was housed in a hostel costing £245 per week. This is shocking at a time when many young people were unable to work and were experiencing delays and backlogs with accessing benefits.

181. We were also concerned that accommodation providers were continuing to evict vulnerable young people during the pandemic (as in the case study below), in some cases for minor infractions, and that these young people had no alternative accommodation or source of support. Some case studies from our experience in May 2020 are below:

Case study: vulnerable young person in need of housing support

A young person who had been subject to a serious knife attack contacted us for support as he was living in a supported hostel, in an outer London borough, but did not feel safe to return there. He approached another local authority who provided him with alternative hostel accommodation elsewhere. However, he breached the restrictions on residents being allowed outdoors only between 10-4pm and only for one hour during the lockdown and was evicted from the hostel.

The council only gave him one hour to pack and leave, and he therefore missed the taxi that was booked to take him 30 miles away to another hostel. He had no

further contact from the local authority and had no other option but to sleep in a park with his belongings. After JFKL intervened, the council agreed to find him alternative accommodation. He was placed in a hotel for the night and then provided with a bungalow with no furnishings, our housing solicitor had to make representations to the council before he was provided with any support.

The young person is vulnerable and exhibiting PTSD symptoms. No further support was provided by the local authority until our solicitor made representations, at which point the council provided him with basic white goods and furniture. He struggled to access basic mental health services and received no support from the local authority with this.

Case study: vulnerable young person in need of housing support during the lockdown

A young person aged 21 with mental health issues including anorexia, who had been violently attacked by her mother, became street homeless after the council ended the hotel accommodation which they had provided during the coronavirus pandemic, stating that she did not have priority need for housing, which she should have been eligible for on the grounds of her mental health. She was left to sleep in a park at great risk. Despite representation by a mental health team to the council and clear evidence of her vulnerability, the local authority refused to house her. This was in breach of the letter sent to all councils asking them to ensure all rough sleepers were housed during the pandemic.

After our intervention the council agreed that she should be housed and that they would provide accommodation while her case was being assessed. She was provided with emergency accommodation in a hotel. Fights and commotion broke out in the hotel due to somebody trying to break in. She was terrified. She was then told by the caretaker that she had to leave the hotel first thing in the morning as it had only been booked for one night. She felt traumatised. The local authority had not done what they had promised by providing her with suitable accommodation on an ongoing basis during the coronavirus crisis. After further representation by us, she was finally provided with suitable temporary accommodation.

Case study: challenges of self-isolating for young people in shared accommodation

A young person aged 22 is a care leaver and was at Kent University. She was living on campus on her own as everyone else had left after lockdown and wanted to be moved more into the town. She was due to finish university in the next month and was meant to be provided with her care leaving accommodation but her local authority were not forthcoming with this.

She became unwell with COVID-19 symptoms and our solicitor informed the local authority of this and they immediately took steps to have her moved. However, she was placed in temporary accommodation which was shared with five other tenants, and the young person was concerned that she would not be able to self-isolate. She has told us that the other tenants were not always hygienic and have had various visitors coming in and out of the property. She described one shared accommodation she had to stay in previously as being run like a brothel.

She was also unable to practice social distancing as the property had a shared bathroom, kitchen and main door.

182. We raised the above concerns in our submissions/briefings to Parliament during the pandemic. References are included below to show that this matter was raised in parliamentary evidence and to provide context for what the Government knew or ought to have reasonably known about these at the relevant time:

- a. May 2020, in a separate briefing for the Lord's Debate on 14th May 2020, subtitled 'Care-experienced young people at risk of homelessness'.
- b. June 2020, in a joint submission with YJLC to the JCHR Inquiry into The Government's response to COVID-19: human rights implications.

Delays to SEND procedures impacting on access to education

183. The closure of schools and some of the measures introduced by the Government during the pandemic disproportionately impacted on the ability of children with special educational needs and disabilities (SEND) to access education and support. Some of the provisions explicitly weakened their entitlements to access the support they needed for their education. This included provisions in the Coronavirus Act 2020 which downgraded the duty for local authorities to assess and create an EHCP as well as the school's duty to admit a child once named on a EHCP to a 'reasonable endeavours' duty. The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020 extended the 16-week timescale to assess an EHCP and 20-week timescale to request to a plan to 'as soon as is reasonably practicable.'

184. Even before the relaxed obligations in relation to the timeframe for assessment and preparation of an EHCP contained in the Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020, and the reduction of the duty to realise the provision set out in an EHCP triggered by the Secretary of State's notice of 28 April 2020 came into force, there has been a dramatic difference in the entitlements enjoyed by young people who have SEND but no EHCP, and those who have an EHCP. This is because young people registered as having SEND but who do not have a EHCP are not entitled to have any specified interventions funded. They are, instead, reliant on a school's delegated funding which is not ringfenced to any individual child. Instead, the relevant guidance requires schools to use their "best endeavours" to meet the needs of children with SEND [see Department for Education Guidance (2014) SEND 0-25 Years Code of Practice]. This delegated funding has long been reported to be insufficient, and families therefore feel that their only option is to obtain an EHCP in order to secure provision for themselves. The Independent (December 2019) reported on this matter in an article titled "*Surge in families seeking help for children with special needs, figures show*" which reported: "The funding just isn't there for many autistic children to get the early support they need, meaning parents are being forced to fight for an EHCP". Unfortunately, delays to the EHCP assessment and drafting process as well as poor decision making from local authorities under pressure, are commonplace [see *Special Needs Jungle (June 2019) The latest SEND Tribunal figures paint a troubling picture*]. This means many families who are entitled to support simply do not get it.

185. The Government's measures exacerbated these problems as only children with an EHCP could attend school (excluding key worker and vulnerable children). Therefore, children who failed to secure an EHCP were left without access to the SEND support they would have been receiving through the school's delegated funding. It also meant that some children who were entitled to an EHCP but had not received one due to delays or poor decision making were unfairly denied months of their education. This problem was made worse by the relaxation of the framework for completing timely assessments and creating plans (see The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020).

186. An area we were particularly concerned about was the risk of exploitation to young people who had been excluded from school. The National Crime Agency has identified absence from mainstream education as a factor that will increase a young person's risk of Child Criminal Exploitation (CCE). CCE describes the process of coercing, controlling or exploiting young people to engage in criminal activity as defined by the

National Crime Agency *“Intelligence assessment (2018) County lines drug supply, vulnerability and harm”* (see paragraph 30). The Children’s Society, National Police Chief’s Council, the Home Office and the National Children’s Bureau have corroborated this view within the context of exclusion from school [see The Children’s Society (2018) *Children and young people trafficked for the purpose of criminal exploitation in relation to county lines: a toolkit for professionals*]. This risk is likely to be more acute amongst vulnerable young people, particularly those who were excluded before lockdown and were not able to access school support and those with SEND given that, as set out above, without an EHCP they were likely missing out on support. They may also be more susceptible to exploitation; research shows that gangs target children with SEND (see YJLC (2018) *Child Criminal Exploitation: county lines gangs, child trafficking & modern slavery defences for children*).

187. We observed this in our casework, with one young person going missing for a long period during the lockdown, with clear evidence that they had been trafficked. This, of course, poses huge risks to the young people involved. Victims of CCE are often trafficked for the purpose of carrying drugs in so called “county lines” operations. This practice places young people at great risk of serious physical harm due to violence, and at risk of being arrested and entering the criminal justice system for nominally serious offences (see Joint report of Ofsted, Care Quality Commission, HMICFRS, HMIOP (2018) *Protecting children from criminal exploitation, human trafficking and modern slavery: an addendum*). It can also lead to their exclusion from school which will have further impacts on their capacity to engage with their education and make them more vulnerable to further exploitation.

188. We raised the above concerns in our submissions/briefings to Parliament during the pandemic. References are included below to show that this matter was raised in parliamentary evidence and to provide context for what the Government knew or ought to have reasonably known about these at the relevant time:

- a. May 2020 submission to the Women and Equalities Committee Inquiry – Unequal impact: Coronavirus (Covid-19) and the impact on people with protected characteristics.
- b. June 2020 submission to the Education Select Committee Inquiry on the impact of COVID-19 on education and children’s social care in June 2020.
- c. March 2021 joint submission of evidence with Just Fair in response to the Public Accounts Committee inquiry into ‘COVID-19: Education’.

Evaluating the impact of the pandemic

189. JfKL did not conduct any of its own research of the negative impacts on children during the pandemic. The examples I give are based on case studies from our direct work, feedback and anecdotal evidence from JfKL colleagues working directly with children and young people and statistics or monitoring collated or assessed by others.
190. JfKL was also part of a group of organisations, co-ordinated by The Children's Society, which collected evidence of the impact of the pandemic on children through a children's services issues collection form. The findings of this research were presented in a number of briefings, some thematic, which were then shared online and with government officials. I attach one of these briefing notes as an example at Exhibit LK/09 [INQ000649415].
191. I am aware of a number of studies or research with children carried out by others during the pandemic, for example: *Life Under Coronavirus: Children's Views on their Experiences of their Human Rights*. (Lundy L., et al (2021), International Journal of Children's Rights).

Were any actions taken by government to mitigate those impacts or trends?

192. In April 2020, the UN Committee issued a statement warning of *"the grave physical, emotional and psychological effect of the COVID-19 pandemic on children"* and called on States *"to protect the rights of children."* It issued guidance to governments on how to protect children's rights in pandemic responses and to take steps to mitigate any adverse impacts on children. It stated that restrictions *"must be imposed only when necessary... proportionate and kept to an absolute minimum."*
193. To the best of my knowledge, I am not aware of evidence which shows that the UK Government took the UN Committee's statement into account as part of its decision-making processes during the pandemic. This is in contrast to action taken by the Scottish Government. (see (2020) Scottish Government Response to the UN Committee on the Rights of the Child: COVID-19 Statement).
194. Despite its wide-ranging impact on the rights of children, particularly on the most disadvantaged, discriminated against, and vulnerable, no CRIA was carried out on the Coronavirus Act 2020 or on many of the Regulations that followed it. This key tool should have been used for the UK Government to consider the UN Committee's statement and comply with its child rights obligations. In contrast, the Scottish Government did undertake several Child Rights and Wellbeing Assessments on the impact of the COVID legislation generally (see Scottish Government (2020) Coronavirus (Scotland) Bill: child rights and wellbeing impact assessment). Although we note that child rights organisations in Scotland concluded that they could have been

more robust (see Together the Scottish Alliance for Children's Rights (2020) *Analysis of Scottish Government's Response to UN Committee's 11 recommendations*).

195. An example of two Regulations where no CRIA was carried out, yet had particularly harmful effects on children, were the Prison and Young Offender Institution (Coronavirus) (Amendment) (No. 2) Rules 2020 and The Secure Training Centre (Coronavirus) (Amendment) Rules 2020 which are outlined in paragraph 6 above.
196. A CRIA was carried out on the Adoption and Children (Coronavirus) (Amendment) Regulations 2020) titled "Children's Rights Impact Assessment. Amendments to children's social care regulations during the COVID-19 pandemic: The Adoption and Children (Coronavirus) (Amendment) (No 2) Regulations 2020". However, it was carried out *after* the regulations had come into force. We disagreed with its conclusions and whether it could really be described as a full impact assessment on children's rights. It concluded, for example, that the changes were "*low risk and small scale*" despite it amending ten sets of Regulations and making changes which included relaxing the requirement on the frequency of social worker visits to children, the weakening of standards in children's homes, and a dilution of safeguarding checks for new foster carers.
197. It is also important to note, in relation to the pandemic, that the UN Committee is clear that "*the right embodied in article 12 does not cease in situations of crisis or in their aftermath*" (see paragraph 127 of the UN Committee on the Rights of the Child (2009) General Comment No.12 The right of the child to be heard CRC/C/GC/12).
198. In spite of these obligations, the clear benefits to policy-making, and calls to do so by UNICEF UK's open letter to the UK Government and others (for example Church Times (13 May 2020) 'Listen to children and young people's coronavirus fears, says Bishop of Gloucester'), the UK Government did not hold any sort of engagement or consultation with children to enable them to share their experiences of the pandemic or their views on the UK Government's response to it despite both having a profound impact on children's lives. Engagement with children could have provided valuable insight, particularly around any negative consequences, so that mitigative action could be taken. This contrasted with some consultation which was carried out by the devolved governments.
199. Some of the research listed above was carried out during the pandemic and could have been used by the UK Government to inform and adapt policies appropriately. I am not aware that this was done.
200. A number of decisions were made by the UK Government that had a different impact on children as compared to adults. It was not apparent that the differential impact was recognised and considered. For example, throughout large parts of the

national lockdown, it was permitted that one person was allowed to meet one other person from a different household. This enabled two adult friends to meet each other outside. It did not allow two child friends (e.g. six or seven years of age) that were too young to leave their house independently to meet each other. To do so would have necessitated a supervising adult which would have broken the 1:1 rule. Concerns about this specific rule were raised by CRAE and other organisations in a letter to the government in March 2021 (found on Just for Kids Law website, 8 March 2021 - 'Campaigners call on Prime Minister to allow children to play outside together as they return to school'). Our concerns went unheeded.

201. Other examples of a universal policy that had an impact on children included the Ministry of Justice custody time limit extension for those remanded in custody awaiting trials which were delayed due to court closures. The Minister seemingly failed to consider that a number of those impacted by those changes were children remanded to the children's secure estate. Nor was there adequate consideration given to the fact that Black boys are more likely to be remanded to custody than their white peers and that the majority of children remanded to custody do not go on to receive a custodial sentence. It was only following the issuing of a judicial review by Just for Kids Law, alongside discussions with Ministry of Justice officials, that amended regulations to exclude children were laid in Parliament.

202. I do, however, acknowledge that some steps were taken by the UK Government to attempt to mitigate some of the harms to children. In response to some recognition of the financial struggles of disadvantaged families, for example, the UK Government introduced an uplift in the Universal Credit standard allowance, and free school meal vouchers. To ensure greater digital inclusion, laptops were provided to some children to assist with home learning. Investment to the Oak Academy to develop resources for online learning was also helpful. Additionally, allowing vulnerable children to attend school was welcome, alongside the then Prime Minister's virtual summit on hidden harms in May 2020. The Government's tightening of the requirements for children to be remanded in custody was also welcome. However, while these and other actions were all positive, they were far from sufficient to counter the harm that the UK Government's own decision-making was doing to children. Furthermore, even where policies could have made a real difference, implementation was often ineffective, for example, very few of the children able to still go to school actually attended, and only small numbers of digitally excluded children received laptops in a timely manner.

203. In part D below I set out the work we did to persuade government to further mitigate the effects of the pandemic on children. However, as we make clear below,

we had real concerns that the UK Government was failing to acknowledge the issues being raised by our organisation, others in the sector, and the Children's Commissioner for England. We did not feel confident that adequate steps were being taken to respond to the serious concerns being raised

Was there a positive impact of the pandemic for children and young people?

204. I have heard anecdotally that for some children lock-down was a positive experience. I can understand that for children who suffer from school anxiety or other issues that make school difficult, then of course it makes sense that the break from school may have helped them. Similarly, fewer children in school and a quieter and calmer atmosphere would have benefitted some children with Special Educational Needs. However, the work we did at JfKL did not involve children who benefitted from the pandemic or the changes that occurred as a result. Therefore, this is not something that I have evidence of.

Part D

JfKL's Interactions with Government

205. In this part of my statement, I set out the interactions that JfKL had with the UK Government during the period of the pandemic. As explained in Part A of my statement, members of my team and I had frequent interactions with the UK Government through writing letters to ministers, meeting with government officials, publishing briefings, and writing or feeding into reports to raise issues of concern. In addition to this, JfKL issued several judicial review cases concerning the rights of children.
206. During the pandemic, our interactions with the UK Government increased. We wrote a higher number of letters to ministers than we normally would, due to our serious concerns about the decisions being made in relation to children and that children's rights were not being considered adequately as part of the decision-making process.

Evidence Gathered

207. In part C of my statement, I reproduced some of the evidence on the impact of Covid-19 that we submitted through various briefings and submissions. For ease of reference, I now provide a list of these documents in chronological order, along with a short summary and the recommendations we made. These are included here to show what issues were raised in parliamentary evidence and to provide context for what the Government knew or ought to have reasonably known about these at the relevant time.

208. **May 2020: The Women and Equalities Committee Inquiry – Unequal impact: Coronavirus (Covid-19) and the impact on people with protected characteristics.**

We highlighted our concerns that the closure of schools and some of the measures introduced by the Government during the COVID crisis raised a number of issues that threatened to disproportionately impact on the ability of children with special educational needs and disabilities (SEND) to access education. We also raised concerns about Black, Asian and Minority Ethnic children and young people disproportionately coming into contact with the police and criminal justice system during the pandemic. We made the following recommendations:

“Recommendations [Children and young people coming into contact with the police and criminal justice system]

The Government must:

- Collect data on children and young people coming into contact with the criminal justice system under the emergency legislation, which must be fully disaggregated by gender, ethnicity and age.
- Issue urgent national guidance requiring police officers and custody sergeants to refrain from arresting children and young people, detaining them and therefore exposing them to greater risk of contracting COVID-19, unless absolutely necessary, and only pursue most serious offences committed by children and young people.
- Ensure that data is available on the numbers of under-18s arrested in the last two months disaggregated by ethnicity and reason for arrest.
- Issue specific guidance to police as to how to interact with children and young people who are potentially in breach of the new enforcement COVID-19 powers.”

“Recommendations [Children with Special Educational Needs and Disabilities]

- The Government should complete a Child Rights Impact Assessment on the Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020 to ensure that the measures taken can be monitored, are proportionate to the crisis, and can be revoked as soon as possible.
- The Government should make sure children with SEND or an EHCP who need and want to be in school can attend to ensure they have access to the right support and resources they need to continue their education.

- The Department for Education should work with school leaders to make a comprehensive plan to ensure that when schools reopen, children with SEND are reintegrated into school with enough support and resources to ensure that we do not end up with a spike in exclusions, school refusing and mental health difficulties amongst young people with SEND.
- The Government should ensure local authorities have the resources to provide continuation of care for children and young people with mental health difficulties. They should provide resources to local authorities to facilitate digital alternatives to face to face clinical and assessment sessions, and to engage the services of locum professionals when employed mental health practitioners are unavailable due to the crisis.”

209. **May 2020: The impact of COVID-19 on homelessness and the private rented sector.**

We highlighted the challenges faced by care leavers during the pandemic, including reduced support from local authorities, increased housing insecurity, and increased need for urgent practical and financial support to meet basic needs such as food. We made the following recommendations:

“Recommendations [Provision of practical support including discretionary payments]:

- Government should ensure that part of the £1.6bn allocated to local authorities to cope with the effects of COVID-19, as well as future emergency settlements, should be ringfenced specifically for children’s social care.
- DfE should provide further guidance to local authorities on discretionary payments to care leavers, clarifying that they should be provided at short notice if necessary and that payments should be authorised unless there is a clear reason not to. This additional guidance could be provided through updating the Coronavirus (COVID-19): guidance for children’s social care services and/or a letter to Directors of Children’s Services. Local authorities should also publish details of their discretionary payments schemes online.
- Local authorities should make sure that other forms of financial support for care leavers including Setting Up Home Allowances can continue to be accessed

during the COVID-19 pandemic and should speed up timeframes and relax restrictions on these where necessary.

- Local authorities should update their local offer to care leavers to show their entitlements during COVID-19, including access to discretionary funding if needed and their entitlement to proactive contact from their PA in line with the new Coronavirus guidance.
- Local authorities should proactively contact all care leavers in their area, including those who are no longer receiving support, to identify whether they have any support needs which have arisen as a result of coronavirus.”

“Recommendations [Housing and accommodation for care leavers]:

- The Education Secretary should champion housing priority need to be extended to include all care leavers up to 25 (not just those who are 21+ and vulnerable), particularly through his role as co-chair of the Ministerial Board on Care Leavers.
- Targeted financial support should be provided to care leavers at risk of homelessness, including sofa surfing and hidden homelessness. DfE should work closely with MHCLG to ensure care leavers at risk of homelessness receive the support they need during the COVID19 outbreak and as the lockdown measures are lifted.
- DfE should update the guidance on coronavirus and children's social care to increase the safeguards which local authorities must put in place to ensure that the settings young people are moving into are safe in relation to risk factors arising from COVID-19 in relation to cleanliness, self-isolation, safety and who else is living in the property. Personal advisors should be in regular contact with young people pre- and post-move and local authorities should ensure they can provide appropriate logistical support recognising the additional challenges created by COVID-19.
- The principle of stability/that nobody should have to leave care during this period should be extended more widely across all significant transitions for children in care/care leavers (for example moving from a semi-independent to an independent setting). Moves which are the expressed wish of the young person and/or for which they have been waiting for a long time (such as taking up their own social housing tenancy) should be prioritised.

- The ban on evictions should be extended to include all care leavers in semi-independent/supported unregulated accommodation. Where there are circumstances which mean a young person must be moved from a particular setting (eg due to risk of harm to themselves or another young person), the local authority should ensure that a suitable and safe alternative placement is found in good time to ensure a smooth transition. Care leavers should not be evicted from semi-independent/supported accommodation for minor infractions of the setting's rules.
- Wherever possible, local authorities should house care leavers housed in self-contained rather than shared accommodation to enable them to follow the guidelines on social distancing. Statutory instrument and guidance on coronavirus and children's social care."

"Recommendations [Law]:

- The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 should now be revoked, given that the lockdown measures are now being lifted and concerns about the social care workforce capacity have not materialised.
- DfE should undertake a Child Rights Impact Assessment (CRIA) of the Coronavirus Act 2020."

210. June 2020: Just for Kids Law submission to the Education Select Committee Inquiry on the impact of COVID-19 on education and children's social care.

We highlighted the urgent challenges vulnerable children faced returning to schools after pandemic closures, including limited support for children without EHCP and increased risk of exploitation for excluded children. We made the following recommendations:

"Recommendations

- The Department for Education should work with school leaders to make a comprehensive plan to ensure that as schools reopen, children with SEND are reintegrated into school with enough support, reasonable adjustments and resources. This would ensure that we do not end up with an increase in disruptive behaviour, disciplinary measures, exclusions, as well as school refusing and

mental health difficulties amongst children with SEND. This must include a trauma-based approach for children without SEN who have experienced trauma.

- The Government should complete a Child Rights Impact Assessment (CRIA) on the Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020 and the notice given by the Secretary of State to relax EHCP entitlements to ensure that the impact on children's rights can be properly understood and measures put in place to mitigate the risks. This would also ensure the measures taken can be effectively monitored, are proportionate to the crisis, and can be revoked as soon as possible.
- The Government should make sure children with SEND or an EHCP who need and want to be in school can attend to ensure they have access to the right support and resources they need to continue their education. This is particularly important if the notice to suspend the EHCP is reissued. Some families would choose not to return their children to school if they cannot obtain the support they would normally be entitled to under an EHCP, because the inevitable consequence will be an escalation of conflict or distress for the young person, and possible disciplinary measures. In such circumstances, families must not be punished for refusing to return their children to school and the Government must clarify that in such circumstances any absence will be recorded as "authorised".
- The Government should urgently complete the SEND Review. The Government should ensure it produces a system which is more efficient, so the current burden on families to fight for support is ended. It also needs to be sustainable which means that schools discretionary funding and local authority high needs budgets are sufficient to meet each category of need. Finally, it must address the gross inequalities faced by children with SEND attempting to access their right to education.
- The Government should ensure local authorities have the resources to provide continuation of care for children and young people with mental health difficulties. They should provide resources to local authorities to facilitate digital alternatives to face-to-face clinical and assessment sessions, and to engage the services of locum professionals when employed mental health practitioners are unavailable due to the crisis.
- The Government guidance on vulnerable children should include children who were excluded from school, either formally or informally, prior to lockdown. Local authorities should continue to assess and make provision for vulnerable children,

including ‘those not formally recognised as vulnerable’ during the COVID-19 outbreak.

- The Government’s Actions for Schools guidance should state clearly the duties of schools and local authorities during the COVID-19 lockdown towards young people missing from school. Those who do not appear in the permanent and fixed term exclusions statistics include informally excluded and self-absenting pupils. More clarity is needed for schools and local authorities to monitor, record and follow up pupils during the COVID-19 outbreak. Systems should be put in place to help schools and local authorities to monitor and follow up pupils who are not attending any form of schooling, who were previously at risk of exclusion or who had high levels of absence.
- The Government should ensure that children who fall victim of CCE during school closures are not criminalised and do not end up entering the youth justice system as a result. To achieve this the Government should ensure that the National Referral Mechanism is resourced to deal with any resulting cases and that the Police and CPS are equipped with appropriate guidance to prevent unnecessary criminalisation. In addition, schools should be provided with guidance to prevent unnecessary exclusions where that exclusion would result from a young person’s exploitation.”

211. June 2020: Just for Kids Law, CRAE and YJLC submission JCHR Inquiry
- The Government’s response to COVID-19: human rights implications.

We raised concerns over the wide-ranging impact of the pandemic and UK Government response. These included the effect on care leavers’ financial security and the impact on their right to food and housing, the weakening of entitlements under the SEND Regulations 2020 which children relied on to access education and the increased risk of children and young people being criminalized for minor offences. We made the following recommendations:

“Recommendations [Impacts on children’s rights]

- Ensure that the Government undertake a CRIA on the Coronavirus Act 2020 and its associated regulations and the impact on children’s rights are considered as part of the 6-month review.
- Ensure that children’s voices are at the heart of the recovery and inform part of the 6-month review.”

“Recommendation [Children’s social care and housing]:

- The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 should be revoked without delay.”

“Recommendations [Rights of care leavers]:

- Local authorities should ensure that discretionary payments are available to all care leavers who need them, including at short notice if necessary.
- The Government should extend priority need for emergency housing to include all care leavers up to 25.
- The ban on evictions should be extended to include all care leavers in semi-independent/supported unregulated accommodation.”

“Recommendations [Homeless families]:

- During and after the COVID-19 emergency, all households, including homeless families living in temporary accommodation, must be protected against eviction and have access to suitable self-contained accommodation, including households with no recourse to public funds.
- Local authorities must be given the resources necessary to ensure that all homeless families have access to safe and secure housing.
- The Government must ensure that social security benefits are sufficient to enable all households to have an adequate standard of living. Local Housing Allowance should be increased to the 50th percentile so that renters are supported to pay actual rent costs and do not face eviction and homelessness.”

“Recommendations [Education]:

- The Government should make sure children with SEND or an EHCP who need and want to be in school can attend to ensure they have access to the right support and resources they need to continue their education.
- The Government should complete the SEND review as soon as possible.
- The Government should prioritise opening all schools in September for all year groups.”

“Recommendations [Ensuring Successful Reintegration back into Schools]:

- The Government should work with school leaders to make a comprehensive plan to ensure that as schools reopen, children with SEND are reintegrated into school with enough support, reasonable adjustments and resources so that this does not result in a rise in exclusions.
- The Government should issue guidance to schools to take a welfare and pastoral approach to disruptive behaviour during reintegration where that behaviour flows from SEND or adverse experiences during lockdown.
- The Government should ensure that breaching social distancing rules are not used as a reason for exclusion, particularly for young children or those with SEND and sensory disorders.”

“Recommendations [Children and young people within the Criminal Justice System (CJS)]:

- The Government should issue urgent national guidance requiring police officers and custody sergeants to refrain from arresting and detaining children and young people, unless absolutely necessary and only pursue the most serious offences.
- The Government should collect data on children and young people coming into contact with the CJS under the emergency legislation, which must be fully disaggregated by gender, ethnicity and age.
- The Government should collect and monitor data on the use of video links with children during COVID-19, as well as conduct independent research on children’s ability to participate and the types of justice outcomes they receive.
- The Government should amend the Policing and Crime Act 2017 to include a maximum time limit that any child can be subject to Released Under Investigation; ensure youth diversionary schemes remain available when children turn 18; and start the process in a youth court for all individuals who are charged with an offence that they committed as a child, ensuring access to specialist courts and lawyers.”

212. March 2021: Just Fair and the Children’s Rights Alliance for England’s written evidence to the Public Accounts Committee inquiry into ‘COVID-19: Education’.

We provided evidence which indicated that educational inequalities widened for specific groups of children. This submission set out key issues during the lockdown, including school attendance and accessibility; access to social security and food

insecurity; access to healthcare and support services; and consideration of the impact on children's rights.

“We recommend that the Public Accounts Committee addresses the following points when it questions senior officials at the DfE on how well the DfE managed its overall response in the first lockdown:

- Did the DfE undertake a Child Rights Impact Assessment on the impact of closing schools and home learning, and on the regulations on children with SEND and exclusions?
- Were the best interests of the child a primary consideration of the DfE where its actions impacted and concerned children?
- What steps were taken by the DfE to ensure that secondary education (general and vocational) was available and accessible to every child; were appropriate measures taken such as the introduction of free education and offering financial assistance in case of need?
- How did the DfE prevent direct or indirect discrimination against children, who are in families subject to the no recourse to public funds condition (NRPF), in budget-related legislation, policies or programmes?
- How did the DfE ensure every child had the right to express their views in matters affecting them, such as school closures and home-schooling?
- What measures were taken by the DfE to encourage regular attendance at school, particularly for disadvantaged students including those in families on low or no income, Gypsy/Roma pupils, young carers, asylum seekers and disabled children?
- What steps did the DfE take to ensure that disabled children had effective access to and receipt of education and training, including in-person support services, learning mentors, specialist teaching, communication facilitation and therapy sessions?
- Why were there delays to the extension of free school meals to some children in families with NRPF?
- What steps did the DfE take to ensure that the interests of business entities were not prioritised over people's right to food, without lawful justification?

- How did the DfE ensure access to adequate healthcare and support services for children?
- How did the DfE ensure that young people with SEND were not disproportionately impacted by measures, and how did they ensure that young people who lost provision under an EHCP or suffered delays to their exclusion process did not suffer long term consequences and were able to return to their usual school and education successfully?"

213. June 2020: Justice Committee inquiry on Coronavirus (COVID-19): The impact on prison, probation and court systems from the Children's Rights Alliance for England and the Youth Justice Legal Centre, part of Just for Kids Law.

We set out two key concerns around the impact of Covid-19 on the courts for children in the criminal justice system:

- Increased use of video link hearings involving child defendants
- Increased delays as a result of Covid-19

We called for the following:

"Conclusion

That during the coronavirus pandemic, assurances are given that video link hearings will only take place for child defendants in the most limited of circumstances and where appropriate, recognising the severe implications for their ability to effectively participate and to receive a fair trial/sentence that reflects their emotional and chronological age as well as inherent vulnerabilities. The default position should remain that children should never appear via video link for non-administrative hearings.

We encourage a progressive approach to all CPS reviews and decisions to charge children, based on existing evidence around the already damaging effects of their entry to the formal criminal justice system and in full awareness that existing delays in the system are now likely to be greatly intensified by the covid-19 pandemic for the foreseeable future.

We support greater focus on diversionary work and the use of out of court disposals and other welfare support for children who commit offences."

214. Subsequent to our written evidence, JFKL's then CEO, Enver Solomon, and the Co-Head of JFKL's Youth Justice Legal Centre, Laura Cooper, were invited to give oral evidence to the Justice Select Committee (HC 306) on 30 June 2020 on entry to the youth justice system. They raised the issue of court delays being exacerbated due to the pandemic and the impact this had on children reaching their 18th birthday before their cases are completed.
215. **May 2020: Briefing for Short Debate: Supporting people previously homeless into permanent housing after the Covid-19 pandemic, 14th May 2020, Temporary accommodation, homeless families and protections against eviction.**

We raised concerns about the disproportionate impact of the pandemic on low-income families and those in insecure housing or precarious employment. We emphasised the urgent need for measures to ensure families can meet their basic needs, including adequate support and accommodation. We made the following recommendations:

“Recommendations

- During and after the Covid-19 emergency, all families, including homeless families living in temporary accommodation, must be protected against eviction and have access to suitable self-contained accommodation, including households with no recourse to public funds.
- Legal protections against eviction and homelessness due to COVID-19 should be strengthened by scrapping Section 21 ‘no fault’ evictions and temporarily suspending the use of Section 8 (Housing Act 1998) evictions.
- There should be an extension of the current ban on evictions.
- Local authorities should be provided with the necessary resources to identify and support households living in unsafe temporary accommodation and provide them with alternative suitable self-contained accommodation where necessary.
- A temporary increase in child benefit of £10 per week should be introduced, as recommended by a number of children's charities.
- The benefit cap should be lifted and the two-child limit scrapped.
- The 5-week wait for Universal Credit should be ended.
- Local Housing Allowance should be increased so that rent support covers the actual costs of renting.”

216. **May 2020: Briefing for Short Debate: Supporting people previously homeless into permanent housing after the Covid-19 pandemic, 14th May 2020, Care-experienced young people at risk of homelessness.**

We highlighted that young people leaving the care system are widely recognised to be more at risk of homelessness. Therefore, it was vital that their needs were taken into account as part of efforts to support people into permanent housing after the pandemic. We made the following recommendations:

“Recommendations

- Government efforts to support homeless people into permanent housing after the pandemic must not exclude those who are hidden homeless or sofa surfing.
- Similar to measures to protect other vulnerable groups such as domestic violence survivors, targeted support should be delivered to care leavers in recognition of their particular vulnerability as part of efforts to address homelessness after the pandemic. These should be delivered jointly by MHCLG and DfE where necessary. Wherever possible, care leavers should be housed in self-contained rather than shared accommodation to enable them to follow the guidelines on social distancing.
- The Government should amend Part 7 of the Housing Act 1996 so that all care leavers aged up to 25 are classed as priority need and therefore eligible to be housed if they are homeless, not just those who are deemed vulnerable as is currently the case.
- The Rough Sleeping Taskforce chaired by Dame Louise Casey should take steps to identify, meet and consult with care leavers to ensure their needs are taken into account.
- During and after the Covid-19 emergency, all families, including homeless families living in temporary accommodation, must be protected against eviction and have access to suitable self-contained accommodation, including households with no recourse to public funds. Local authorities must be given the resources necessary to identify and support households living in unsafe temporary accommodation and provide them with alternative suitable self-contained accommodation where necessary.

- Vulnerable young people including care leavers should not be evicted from any form of housing unless their local authority can guarantee them safe and suitable alternative accommodation.
- Local authority housing services must remain open and be adequately resourced and supported by central government to do so to ensure that all homeless young people who urgently need support are able to access it and do not experience a delay which could cause them harm or put them at risk.”

217. **March 2021: Briefing for a House of Lords’ Oral Question ‘To ask Her Majesty’s Government what steps they are taking to enable children who commit offences to be tried and sentenced according to the youth justice system, and in particular, those who turn 18 before their first court appearance’ tabled by Baroness Sater, March 23rd 2021.**

We raised concerns that long delays before a decision to charge and/or trial had huge detrimental impact on the well-being of children and highlighted the legal implications of a child turning 18 prior to plea or conviction.

Other Briefings

218. We published a briefing in August 2020, “Excluded, Exploited, Forgotten”, on the links between school exclusion and child criminal exploitation and highlighted how Covid-19 had likely increased the numbers of children being criminally exploited and the urgent need for CCE to be taken into account as part of the exclusions process. A copy of which I attach at Exhibit LK/10 [INQ000176266].

219. We contributed to a report on the impact of the pandemic on children in Europe co-ordinated by Eurochild: “Growing up in lockdown: Europe’s children in the age of COVID-19 2020” (December 2020)

220. JfKL took part in research as part of the project The ‘Impact of COVID-19 on Youth Justice’ carried out by the Alliance for Youth Justice (AYJ) and Manchester Centre for Youth Studies at Manchester Metropolitan University The project aimed to understand and document the unprecedented implications that COVID-19 has had on the youth justice system and the vulnerable children it works with. All findings and research papers can be found at the Alliance for Youth Justice website titled “*The Youth Justice System’s Response to the COVID-19 Pandemic*”.

221. We published a briefing on homeless care leavers which evidenced how the issues had been exacerbated by Covid 19 “Hitting brick walls: Barriers faced by homeless care leavers” (April 2022).
222. We published a series of joint briefings with a number of children’s charities, on putting children at the heart of the pandemic recovery planning led by the National Children’s Bureau. These can be found on the Bureau website titled “A vision for recovery” and a follow-up statement in June 2021 (NCB website titled “*140+ Organisations call on government to put children at the heart of the nation’s recovery*”). These covered a set of overall principles alongside briefings on child poverty, social security and housing; early years; education; mental health; children in care and care leavers; back to school; safeguarding and child protection. Each briefing included clear recommendations for the UK Government (NCB website titled “Delivering a recovery that works for children: Full list of recommendations”). The briefings were sent to the UK Government and discussed at meetings with coalition members and officials from a number of Government departments. The briefings were also discussed at an All Party Parliamentary Group for Children meeting in July 2020, where the then Children’s Minister Vicky Ford was in attendance (NCB website titled “Children’s Minister welcomes principles that put children, young people and families at the heart of recovery plans”). We also supported a briefing, again co-ordinated by the National Children’s Bureau, calling on the Government to Build Back Childhoods (NCB website) published in October 2021.

Letters to Government

223. I have provided a table of all the letters we wrote to various ministers and/or civil servants during the pandemic and exhibit those letters as LK/11-LK/17.
224. We also supported a number of joint letters to UK Government Ministers coordinated by other children’s organisations. For example, in March 2020, we supported a letter coordinated by the National Youth Advocacy Service, alongside 40 other charities. This called for the UK Government to ensure ‘*as a matter of urgency that the rights of care-experienced children and young people*’ were protected during the pandemic. It also set out a number of vital steps for the UK Government to take. We also supported a joint letter coordinated by the Fast Forward Foundation calling for the UK Government to ensure that care leavers were supported properly. We also supported a joint letter, in May 2020, coordinated by the Open Society Justice Initiative, raising concerns about the over policing of certain communities in the enforcement of coronavirus restrictions.

Recipient	Topic	Date	Response	Response date
Rt Hon Robert Buckland QC MP, the Justice Secretary Exhibit LK/11 [INQ000176288]	Children in prison	18 March 2020	No response received	
Rt Hon Priti Patel MP, the Home Secretary copied to Kit Malthouse MP, then Minister for Crime and Exhibit LK/12 [INQ000176289]	Children in police custody	23 March 2020	No response received	
Rt Hon Michael Gove MP then Chancellor of the Duchy of Lancaster – copied to Ministers from other key government departments. Exhibit LK/13 [INQ000176290]	Support for cross-government efforts to address the impact of Coronavirus on children and families. This also included a briefing paper.	25 March 2020	No record of a response	
Rt Gavin Williamson CBE MP, Secretary of State for Education	Guidance for local authorities on children's social care	17 April 2020	Vicky Ford MP	21 May 2020 And 16 th July 2020

Exhibit LK/14 [INQ000176291]				
Vicky Ford MP, then Minister for Children and Families Exhibit LK/15 [INQ000176292]	Request for Child Rights Impact Evaluation (CRIE) to be conducted on the Coronavirus Act 2020 and that comprehensive CRIAs be conducted for all COVID-19 related regulations.	12 May 2020	Vicky Ford MP	1 June 2020
Vicky Ford MP, then Minister for Children and Families Exhibit LK/16 [INQ000649400]	Covering letter to accompany joint briefings on placing children at the heart of pandemic recovery	3 rd July 2020	No record of response	
Rt Hon Boris Johnson MP, then Prime Minister Rt Hon Gavin Williamson MP, The Secretary of State for Education, Rt Hon Matt Hancock, then Secretary of State for Health and Social Care and Vicky Ford MP, then Minister for Children and Families	Exempting children under 12 from the regulations concerning meeting outdoors.	5 March 2021	NR Ministerial Correspondence from Department for Health and Social Care Nadine Dorries MP, then Minister of State for Patient Safety, Suicide Prevention and Mental Health	8 March 2021 1 April 2021

Exhibit LK/17 [INQ000176293]				
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Pre-Action Letters and Litigation

225. JfKL served a judicial review pre-action protocol letter to the Justice Secretary in relation to the (Custody Time Limits) (Coronavirus) Regulations 2020. I exhibit the Pre Action letter at Exhibit LK/18 [INQ000176297].
226. In summary the regulations allowed for custody time limits (CTL) to be extended across all criminal cases, allowing prisoners on remand to be kept for longer in custody without further judicial oversight. The criminal courts have the power to extend CTL providing the statutory criteria are met. It is possible where appropriate and necessary to keep someone in prison for longer awaiting a trial. It is obviously undesirable to do so where it can be avoided.
227. We argued that the regulations extending the CTL should have excluded children in prison and that the CPS would be required to make an application to extend CTL in respect of any child held on remand. We were concerned both about the conditions in prison for children and the length of time they were detained. We were concerned about the lack of consultation with key stakeholders, especially the lack of consultation with the Children's Commissioner for England before making the changes.
228. Unfortunately, it was necessary to issue proceedings against the Secretary of State for Justice following which the parties agreed to stay the case to allow negotiations where Ministry of Justice conceded to our request in full. The UK Government amended the Regulations to exclude children and ensured they had retrospective effect.
229. JfKL served a judicial review pre-action protocol letter to the Secretary of State for Education in regards the lawfulness of the School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020. We requested amendments to the regulations which would address our concerns that schools could extend the time limit for holding an exclusion review without any upper limit. Following a series of meeting with DfE officials, the Regulations were amended to address our key concerns. I exhibit the letter at Exhibit LK/19 [INQ000176298].

Meetings with Government Officials

230. Throughout the pandemic period, we had meetings and email correspondence with UK Government officials. It has not been possible to provide details of all of the meetings and email correspondence during this period because as a small charity we

generally do not log or hold this information centrally. There has also been changes of personnel. However, I have provided a table of key meetings and the topics discussed.

Government department	Attendees (UK Government officials)	Date	Topic
Ministry of Justice	Youth Justice Board	20 April 2020	Youth justice issues including early release from prison
Department for Education	Sophie Langdale, Director, Children's Social Care Practice and Workforce, DfE; Jeremy Gleaden, Senior HMI, Ofsted; Katy Weeks, Deputy Director, Adoption, Family Justice and Care Leavers, DfE; Jonathan Bacon, Deputy Director, Looked After Children, DfE; NR Children's Social Care Covid-19 Co-ordination, DfE; NR Children's Social Care Covid-19 Co-ordination, DfE	5 May 2020	Discussion between DfE and children's charities on the children's social care regulations
Department for Education	Fran Oram, Director, Children's Social Care – Practice and Workforce, DfE, Jeremy Gleaden, Senior HMI, Ofsted, Isabelle Trowler, Chief Social Worker for England (Children and Families), DfE; Christina Bankes, Deputy Director, Adoption, Family Justice and Care Leavers, DfE; NR NR Children's Social Care Covid-19 Co-ordination, DfE; NR Children's Social Care Covid-19 Co-ordination, DfE Clare Cocken, Children's Social Care Covid-19	20 May 2020	Meeting with DfE and children's charities on the children's social care regulations

		Co-ordination, DfE; NR Children's Social Care Covid-19 Co-ordination, DfE; NR NR Stakeholder Engagement and Communication, DfE		
Department Education	for	Katy Weeks, Deputy Director, Adoption, family justice and care leavers, DfE	10 June 2020	To discuss the section on care leavers in the New Coronavirus guidance for local authorities on children's social care
Department Education	for	NR Behaviour, Attendance, Exclusions and Alternative Provision Division (BAEA), DfE NR Behaviour, Attendance, Exclusions and Alternative Provision Division (BAEA), DfE NR Exclusions Team Leader, Behaviour, Attendance, Exclusions and Alternative Provision Division (BAEA), DfE	13 July 2020	To discuss Covid exclusions regulations
Department Education	for	John Myers, Deputy Director, Children's Social Care, DfE	16 July 2020	To discuss the section on care leavers in the New Coronavirus guidance for local authorities on children's social care
Department Education	for	Katy Weeks, Deputy Director, Adoption, family justice and care leavers, DfE Rob Macpherson, Head of care leavers NR	15 July 2020	To discuss the section on care leavers in the New Coronavirus guidance for local authorities on children's social care

Department Education	for	NR	Behaviour,	29 July 2020	To discuss Covid exclusions regulations
		Attendance, Exclusions and Alternative Provision Division (BAEA), DfE			
		NR	Behaviour,		
		Attendance, Exclusions and Alternative Provision Division (BAEA), DfE			
Ministry of Justice		NR	Behaviour,		
		Attendance, Exclusions and Alternative Provision Division (BAEA), DfE			
		NR	Exclusions Team Leader, Behaviour, Attendance, Exclusions and Alternative Provision Division (BAEA), DfE		
Ministry of Justice		NR	- Senior	8 and 17	To discuss Custody Time Limits case
		Lawyer, MOJ, SASO and General Public Law Litigation Team		December	
		Matthew Gould - Deputy Director, Criminal Justice Strategy & Criminal Court Policy MOJ		2020	
		NR	- Criminal Justice Strategy, MOJ		
Ministry of Justice		NR	NR and		
		NR			

Contact with Ministers and Senior Civil Servants

231. At the beginning of the specified period, we were not regularly asked proactively for our views. For instance, we were not consulted ahead of the Coronavirus Act 2020 being passed and its related regulations and guidance. In the first few months of the pandemic there were wide-sweeping changes to children's lives with little or no consultation although this did improve from late May 2020 onwards as outlined further below.

232. A notable exception to this trend was MOPAC: the Mayor's Office for Policing and Crime (in London), who contacted us on 30 March 2020 asking us for our views about policing the pandemic in London, to which we responded. I exhibit those emails at Exhibit LK/20 [INQ000649405].
233. In general meetings between JfKL and civil servants (see table above) generally came about at our instigation or in response correspondence with a Minister or following the service of pre-action protocol in Judicial review letters. I cannot recall being asked to provide any guidance, training or insight to the Home Office, the Ministry of Justice, His Majesty's Prison and Probation Service, Department of Education, Department of Health and Social Care or any other government department or organisation.
234. Our main contact outside of and during the pandemic period was with the DfE's Children's Rights Team. As set out in Part A, I co-chair the CRC Action Group along with a senior official from this department.
235. At the outset of the pandemic, in March and April 2020, there were significant decisions and developments which had an impact on the rights of children. We therefore sent a number of letters due to our concerns, as set out above.
236. In March 2020 we wrote a joint letter to the then Justice Secretary but didn't receive a response. On 23 March 2020, we wrote a letter to the then Home Secretary, Office but again received no response. On 17 April 2020, we wrote to the then Education Secretary about the revised guidance to local authorities on children's social care and did not receive a response until 21 May 2020.
237. This was not our usual experience. Generally, prior to the pandemic, if we wrote to a Minister about an important and urgent issue concerning children, we would receive a response in a timely manner.
238. Whilst I can understand that March and April 2020 was a very busy time for the government, I had expected that they would have replied given our expertise and previous engagement alongside the importance of the issues we were raising. I certainly would have expected to have eventually got a response, particularly because the issues we were raising were ongoing. These were important and urgent matters concerning extremely vulnerable children, which included children in prison and children in care. I would have expected the UK Government to engage proactively with stakeholders.
239. In my experience, the level of engagement we have with the UK Government, officials within the DfE or other government departments, varies depending on the particular government and the political priorities of individuals ministers. However, despite those caveats, in non-crisis times, we often have ongoing and regular meetings

with officials. When policy proposals concerning children in areas of our thematic focus or cross cutting children's rights proposals are being developed, we would usually have significant engagement and consultation with the relevant department. Usually, officials will contact key stakeholders proactively prior to any formal and public consultation, which will often include our organisation where we have the relevant expertise. There would usually then be a public consultation and often we would have a meeting or meetings post consultation with the relevant department before new policy proposals or legislation are developed further. We also frequently engaged with officials to discuss the impact of government policy and how it could be improved to better implement the CRC and the recommendations made by the UN Committee. Indeed, prior to the pandemic we had started a series of thematic sessions at the CRC Action Group, with officials from a range of government departments to take stock of the action taken in response to the 2016 Concluding Observations on the UK.

240. While we appreciate that the normal timeframes for engagement and consultation would not have been possible in the circumstances, we would have expected more proactive engagement to have taken place with key stakeholders. We were frequently only aware of a significant new regulation after they had been laid before parliament. I am not aware of other children's rights organisations being consulted. To the best of my knowledge many regulations were passed with little consultation with civil society organisations, the Children's Commissioner, or children themselves. JfKL and others in the sector were surprised at the lack of proactive engagement of the UK Government in light of the unprecedented urgent challenges and the wide-ranging changes coming into effect. Although we did not expect the usual time frame for consultation, I was surprised that many key themes or issues were not discussed prior to new legislation being passed.

241. In addition to inadequate consultation, we were also deeply concerned that, despite the development of a CRIA template by the DfE in 2018, a child rights impact assessment either *ex ante* or *ex post* was not carried out in relation to the Coronavirus Act 2020 or on many of the subsequent regulations. This was despite JfKL and others calling for this to happen. I have set out the importance of CRIAs as a tool for assessing potential risks to children's rights above.

242. Concern around the lack of consultation and completing CRIAs was further compounded by the fact that new regulations were given very little parliamentary time for debate and scrutiny. This also meant we had very little practical opportunity to engage with parliamentarians or provide briefings in order to ensure that proper consideration was given to the impact of the changes on children's rights.

243. Engagement did improve as time went on. In May, June and July 2020 we had more meetings and email correspondence with government officials and from mid-May 2020 there was better communication. For example, whilst we were not consulted about changes to the SEN regulations, about which we raised concerns, we were then emailed by the DfE to ask us to respond to a consultation about changes to the Schools Admissions Code in June 2020. I exhibit that email as Exhibit LK/21 [INQ000649406]. Further we were consulted about changes to social care guidance in late June 2020.
244. However, even when communication improved, we were concerned about whether our concerns were being heeded by Ministers. The level of our concern was demonstrated by the legal action we were forced to take in regards two separate sets of regulations with a significant impact on vulnerable children. Had we had greater capacity, we would have likely taken further legal challenges on a wider range of regulations.
245. For example, when considering the changes to the Custody Time Limit regulations, we had no prior knowledge or engagement from the Ministry of Justice prior to the regulations coming into effect.
246. We also note that even where serious concerns were raised by us and others across the children's sector on the negative implications and impact of regulations on children, our concerns often went unheeded. A key example was the changes brought in by the social care regulations which lead to successful judicial review proceedings brought by Article 39. This was illustrative of the UK Government failing to take seriously the concerns being raised by many in the sector.

How Could Communication Be Improved

247. I have reflected on how there could be better communication and consultation in the event of a future crisis. In my view the UK Government should engage proactively with:
- a. the children's sector, including those with children's rights expertise, which would include JfKL, and organisations who have expertise working with and for children who are most likely to be impacted.
 - b. The Children's Commissioner for England
 - c. Children themselves – with relevant lived experience of the policy under discussion.
248. Any such communication, genuine consultation and engagement would clearly result in better decision-making and ensure risks to children and their rights are known and understood by the UK Government. Effective consultation is needed to ensure that

all the three groups above are properly informed of proposals and consulted with, which must include a genuine commitment to listening and changing course if needed.

Communication with the Children's Sector

249. I appreciate that in a fast-paced crisis there is less time than usual to conduct public consultations. I do not accept that this means that no effective consultation can take place. This is why I was surprised that the UK Government was not more proactive in engaging those with experience and expertise to obtain (expeditiously) a range of views to assist with the difficult decisions that needed to be made.
250. It would have been appropriate to set up a children's sector stakeholder group with a broad range of expertise and focus, including on children's rights, who could have been consulted on issues quickly. I am not aware of this happening. The CRC Action group, for example, could have been repurposed to be a sounding board on proposals. It is important that any such group has representation from organisations working with children who are more likely to be negatively affected, such as, children living in poverty, children from racialised groups or disabled children, as well as children who live in institutions.
251. Absent a specialist stakeholder group, it would have been possible to use existing stakeholder groups to disseminate information rapidly and gather preliminary views very promptly prior to final decisions. To my knowledge, this did not happen. If consultation occurred, it was not transparent and with a small number of organisations. In my view there needed to be more open communication channels with a broader range of organisations from the very beginning of the pandemic.

Consulting with Children

252. While there are stakeholder groups between civil society and the UK Government, there are fewer that adequately and appropriately communicate and consult with children themselves. To do so in a pandemic, consideration needs to be given to setting up ways that children can feed into government decision-making on a systematic basis prior to any future crisis.
253. In order to engage with children, the UK Government needed both better communication strategies with children and existing structures to listen to and take into account children's views. This requires the following:
- a. A clear and consistent commitment across government departments to listen to children and take their views seriously as part of decision-making processes
 - b. A clear structure by which children's views will be considered in any decision-making process, this could be provided through CRIA.

- c. A diverse range of mechanisms to engage children, to ensure an appropriately diverse range of children are able to adequately share their views, including young children and disabled children who may need additional communication support. This must also include mechanisms to involve the most vulnerable and marginalised children – those in contact with the criminal justice system, including those in prison, and children seeking asylum or in contact with the immigration system.

254. Different government departments, or directorates within departments could have advisory groups of children, with lived experience relevant to the particular issues being considered. This could be run by officials, or an organisation could be commissioned to recruit, organise, support and empower children on such advisory groups. There already exists some good practice examples, for example, the DfE has a SEND children's advisory group - FLARE - supported by the Council for Disabled Children. However, this is not a consistent or common approach across government.

255. Further examples include:

- the then Children's Minister, Edward Timpson, met regularly with a diverse group of children to discuss follow-up to 2016 Concluding Observations.
- officials from the DfE engaged in the follow-up to the Independent Review of Children's Social Care and met with children and young people with lived experience of the care system
- a cross departmental ministerial board on care leavers invited a number of children and young people to speak directly to the board about their experiences.

256. There are therefore opportunities and a range of proven mechanisms to meaningfully engage children in decision-making. In a crisis it would very likely entail needing to use existing networks and structures. Therefore, if such structures are not already in place to seek children's views it would be extremely difficult to do so at such a time. This is especially true of consulting with vulnerable and marginalised children, who are likely to be the most impacted in a crisis. Engaging these children takes time, as it involves building trust and confidence and ongoing support to ensure they are empowered to express their views. This may well involve working in partnerships with organisations, including community-based groups, who already have trusted relationships with children. Listening to children takes time and resources, but as well as being a child's right to have their views considered, evidence shows that it also leads to more effective policy making.

257. I know of no examples of government consulting with children or young people during the pandemic. I am aware that the Children's Commissioner for England and

UNICEF UK requested that children be allowed to ask questions at the daily briefings given during the pandemic, but this request was refused.

258. In addition to seeking children's views, there also needed to be consistent and child-friendly information available, both to encourage children to take part in a consultative process, but also to properly inform them about the crisis. It was very disappointing that there was little or no child-friendly versions of the government communications during the pandemic. The only information I was aware of that seemed aimed at children or young people was designed to make them feel guilty or scare them into obeying the rules – such as the message in Preston in August 2020: "Don't kill Granny" (see The Guardian, 8 August 2020) - rather than properly informing them of the rules and the situation in ways they could understand. There needs to be proper commitment and expertise within UK Government comms to ensure appropriate messaging, and child-friendly information is available.

Part E

Preparing and planning for a crisis – including children and young people

Embedding children's rights

259. My witness statement has referred to throughout to steps and interventions that could, or should, have been taken to protect and promote the rights of children during the Covid pandemic. I have identified actions that can be implemented to protect children in future civil emergencies.

260. In terms of lessons learned, it is important to note that the next crisis or pandemic will be different in ways that we may not be easy to predict. It is critical – therefore - to learn from the failure to embed children's rights in decision-making. The UK Government should reflect on how decisions are made as much as what those decisions are. For these reasons, my statement has highlighted decision-making within the UK Government.

261. In this spirit, steps need to be taken in advance of a pandemic to ensure structures are in place to deal with an emergency. For example, it is difficult for the UK Government to consult with children during an actual emergency unless they have already set up effective methods to communicate and engage with children in advance. Similarly, if children's rights are not systemically considered across government decision-making in ordinary times, it is difficult to embed structures to ensure such consideration during an emergency. In our view it is within the scope of the Inquiry to recommend robust child rights legislative requirements, a Child Rights Action Plan, and for there to be embedded structured considerations of children's rights in decision-making. It is crucial that these steps are taken now to ensure the UK Government is better prepared to fully consider children in the next crisis and ensure their rights are respected.

262. An illustration of children's rights statutory requirements includes The Children's Wellbeing and Schools Bill which is currently being debated in the House of Lords. At Committee stage two amendments will be tabled which, if accepted, will 1: require Ministers to give due regard to children's rights when carrying out their functions as they relate to children's wellbeing, social care or education, and 2: introduce a statutory requirement for Ministers to prepare and publish a CRIA on any proposed legislation, policy, budgetary decision or other strategic or operational decision relating to children's wellbeing, social care or education. These amendments are supported by 115 children's charities. I attach our briefing at Exhibit LK/22

[INQ000649407], which sets out our reasoning to support these proposals as well as listing the other charities which supported it.

Reframing Childhood Report

263. In 2022 the British Academy published a report following a four-year review into the role of the state in childhood in the UK: *Reframing Childhood*, which I attach as Exhibit LK/23 [INQ000649408]. Whilst the remit of this report is broader than that of the Inquiry, the difficulties with childhood policy in the UK underpin the mistakes made about children in the pandemic. The report found that childhood policy was “fragmented, inconsistent and uneven” which led to “significantly different outcomes depending on location and background.” The report reflects on the pandemic and sets out 7 recommendations for childhood policy at pages 9-10 of the report.

264. Some of these recommendations are good practice for any policy-making: recommendation 7 is to monitor existing policies for children, and recommendation 3 is to take a pragmatic and evidence-based approach to children’s rights. It is perhaps telling that the report writers considered that these needed to be recommendations. The others concern communicating policy to children in a child-friendly way and involving children’s voices in both the development and evaluation of policy-making.

265. Importantly the report recommends that there is joined-up policy making throughout the UK Government, and one of the key reasons for recommending there be a Children’s Minister at Cabinet level is to ensure a joined-up approach to decision-making, whereas currently issues sit in different departments.

266. Recommendation 2 is to increase awareness and understanding of the CRC and its benefits for existing policy agendas.

ENOC Report

267. The European Network of Ombudspersons for Children wrote a position statement on how to deal more effectively with a future pandemic or crisis in September 2021 following cross-European research on the impact of the pandemic on children. Its recommendations are focused on policy-making for children in a crisis and include detailed recommendations about embedding children’s rights at all times, including in a crisis or pandemic. This includes ensuring that decisions are made in compliance with the CRC, that child rights impact assessments are carried out, and making sure that there are key decision-makers with cross-cutting and direct responsibility for children. Another key theme of the recommendations is to empower children, which includes ensuring appropriate and child-friendly communication as well as the participation of children within decision-making.

Embed Investing in children

268. Another lesson to learn is that ahead of the pandemic, millions of children were living in poverty and/or invisible to over-stretched and under-funded public services. In any future crisis, children will disappear even further from view, and inequalities become more entrenched, unless action is taken now to ensure the services children depend on receive all the investment that is desperately needed after the deep cuts that took place during the years of austerity. This is especially important if we are to ensure that all children are still able to recover from the worst impacts of the pandemic. Concerted action must also be taken to address the shameful levels of child poverty in this country.

What About the Children?

269. I refer back to the What About the Children? report that I exhibited above. In the report, supported by a significant number of children's charities and the previous Children's Commissioner for England, Baroness Longfield, we put forward a number of key recommendations that continue to be relevant.

Key Recommendations

In my view the most important lessons to learn from the pandemic can be divided into three categories:

- a) Ensure children's rights are embedded in decision-making
 - i. The UK Government should take forward in full the General Measures of Implementation of the CRC, in particular through incorporating the CRC in full into UK domestic law, building on recent developments in Scotland.
 - ii. CRIAs should be made a statutory requirement for all new policy and legislation, using the existing template developed by the Department for Education. There should be a statutory requirement to publish CRIAs at the time of their production.

In addition, CRIAs should be incorporated as a requirement into pandemic planning processes and children's right should be given specific consideration in any and all of the new pandemic preparedness structures recommended by the Inquiry in its Module 1 report.
 - iii. The UK Government should adopt the UN Committee of Children's Right's recommendation that UK Government establish structures, such as a senior ministerial lead at the national level, for implementation and monitoring of the UNCRC, and a Cabinet Minister for Children, as recommended inter alia in the final report of the Independent Inquiry into Child Sexual Abuse.

- iv. A Children's Rights Strategy and Action Plan should be developed, with clear objectives and timebound actions, with appropriate oversight and coordination that takes place at the highest levels of government.
 - v. Government should implement a cross-government mechanism, and associated funding, to ensure the views of children are systematically considered in policymaking, including younger children and those from marginalised groups.
- b) Ensure the government fully takes children's rights and best interests into account before and during future crises
- i. By bringing the socio-economic duty set out in section 1 Equality Act 2010 into force as soon as possible, as has already been done in Scotland and Wales.
 - ii. Amending the Equality Act 2010 ending the egregious position where service providers and others can discriminate lawfully against children on the basis of their age.
 - iii. By strengthening parliamentary oversight and scrutiny before schools can be closed in future emergencies, and ensuring the decision to close schools cannot be made by ministers alone and is considered only as a last resort. This should also ensure that if schools do need to be closed that adequate steps are taken to mitigate the worst harms.
 - iv. By testing future pandemic policy guidance with children and families, creating child and youth accessible, friendly and relevant information about accessing health services, and recognising and safeguarding opportunities to play and stay safe.
- c) Supporting the Covid generation to thrive and honouring children's contribution to overcoming the pandemic
- i. By setting out a comprehensive, long-term funding settlement for children's services and children's social care that invests at least £4.6 billion a year in early intervention and therapeutic services.
 - ii. By investing in child poverty reduction so all families can afford essentials, scrapping the two-child limit and benefit cap and by the reinstatement of statutory child poverty reduction targets, through new primary legislation in a Child Poverty Act.
 - iii. The development of a child's mental health and wellbeing strategy, with associated funding, including mental health teams in schools, a National Play Strategy, and a mechanism to ensure that play is specifically considered within a ministerial portfolio.

Statement of truth

I, Louise King, believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

PD

Signed

Louise King

Dated: 30 July 2025