

Date 16th December 2021

We write to you as individuals responsible for, and interested in, the safeguarding, welfare and protection of children.

On the 16th of December 1991 we as a nation formally ratified the United Nations Convention on the Rights of the Child¹ (UNCRC), reaffirming our commitment to the protection of children, no matter where they were born. Seventeen-years later we removed our final two reservations ensuring that all children, including those coming to our shores to seek asylum, were guaranteed the same rights and protections. Thirty years on, to the day, not only are those rights under threat, they are being directly undermined and dismantled.

As a group of organisations from across the sector working with and for children, we are hugely concerned about the future of the specific protections and provisions for children established in the UNCRC and The Children Act 1989, and the centrality of children's rights and best interests.

We believe that the current Home Office agenda and decision making is taking priority over children's rights and welfare, creating a dangerous and unlawful precedent. You have a duty to ensure that all children are treated as children first, and to uphold the international and domestic standards for children's rights that we are all entrusted with.

The Home Office practice of directly placing vulnerable children who maybe traumatised, unaccompanied, and trafficked, in hotels contravenes the legal obligations of local authorities, and as such has been criticised by the Office for Standards in Education (OFSTED)². It contravenes Section 20 of The Children Act 1989³, which clearly sets out the requirements of local authorities to provide "suitable accommodation" for "any child in need within their area". Not only this, but in regards to children arriving unaccompanied by the parents or caregivers and seeking asylum. It goes against guidance provided specifically to Border Force to ensure the protection and welfare of children⁴. Similarly, Section 55 of the Nationality, Immigration and Asylum Act 2002, which, among other things, stipulates "all activities and decisions to be taken with the child's best interests being primary, and where all children are equal based on their needs⁵.

We recognise that the recent government's proposals for ensuring that more local authorities receive separated children is a potentially positive step forward, providing children that are placed within local authorities that have experience in meeting the urgent needs of these children. Their needs require specialist expertise and must be provided for.

The ongoing practice of the Home Office use of hotels to accommodate children leads us to have serious concerns where children are being placed outside of the established legal protection frameworks, including those they have a right to under The Children Act 1989, through which their needs should be met.

¹ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

² "...using hotels is neither acceptable nor sustainable. No one would want that for their own children."
<https://www.thetimes.co.uk/article/5f192bce-5612-11ec-81f2-17f963b74220?shareToken=9f8cb4f05d8f4c6b0afef110c68166f4>

³ Children Act 1989 Section 20 <https://www.legislation.gov.uk/ukpga/1989/41/section/20>

⁴ Every Child Matters.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/257876/change-for-children.pdf Every Child Matters is published alongside a detailed response to Lord Laming's Report into the death of Victoria Climbié, and a report produced by the Social Exclusion Unit.....

⁵ UK Visas and immigration, Section 55 Guidance,
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431346/Section_55_v12.pdf

We recognise the pressures that local authorities are under, with full costs for the care of these children being looked after needing to be met within the framework of The Children Act 1989. The Home Office use of hotels fundamentally breaches these obligations⁶. The existing legal frameworks and guidance exist for a purpose. Domestic and international law recognises that the protection of children has to be paramount. By placing children outside of the recognised legal welfare and protection systems it places them at increased risk of going missing⁷, being targeted by traffickers and re-exploited; as evidence points to vulnerable children in regulated children's homes being targeted by predators. The risks to children in unregulated hotels, without the children's statutory care framework in place, is heightened.

We are urging the government, and all interested parties, to ensure that the direct care, safeguarding, welfare and child protection of these children are immediately met through the statutory framework of care for children, and for it to be delivered by local authority children's social care, under the law and direct responsibility of the Secretary of State for Education. Under these provisions, the current actions by the Home Office of directly placing children, in hotels must immediately cease, and in so doing the Home Office supported to meet their statutory requirements to safeguard children and act in children's best interests under their duties enshrined in Section 55 of the Nationality, Immigration and Asylum Act 2002. This we believe will address the threat posed to children in need of protection and safeguarding in the best interests of the child.

In putting our names to this open letter, we as a group of organisations show our support for and commitment to our UK child protection and safeguarding system of law and to the rights of children, all children, as enshrined in the Convention on the Rights of the Child. Furthermore, this shows our commitment to working together in the interests of the child, and we respectfully ask you to act in order to ensure children are safe, cared for and with their rights in law upheld and afforded to them.

Signed,

Andy Elvin, CEO, The Adolescent and Children's Trust (TACT)

Elizabeth Booker, CEO Alternatives Trust East London

Carolyn Willow, CEO, Article 39

Alison Pickup, Director, Asylum Aid

Sheila Melzak, Director, Baobab Centre for Young Survivors in Exile

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Katie Clarke, Director, Bringing Us Together

Dr. Guddi Singh, Advocacy Lead, British Association of Child & Adolescent Public Health (BACAPH)

⁶ ibem

⁷ Still in Harm's Way

An update report on trafficked and unaccompanied children going missing from care in the UK.
<https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=27ebad70-3305-4e41-a5ca-7a1f24cba698>

Kathy Evans, CEO, Children England

Leigh Elliot, CEO, Children North East

Mark Russell CEO, The Children's Society

Eleanor Brown, Safeguarding Lead, Community Action for Refugees and Asylum Seekers

Bella Sankey, Director, Detention Action

Patricia Durr, CEO, ECPAT UK

Simon Barrow, Director, Ekklesia think-tank

Denise McDowell, CEO, Greater Manchester Immigration Aid Unit

Karen Goodman, Independent Social Worker

Dr Razia Shariff CEO, Kent Refugee Action Network

Philip Ishola, CEO, Love146

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Anna Feuchtwang, CEO, National Children's Bureau

Mark Simms, CEO, P3 Charity

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John McGowan, General Secretary Social Workers Union

Naomi Jackson, Development Lead, Social Workers Without Borders

Celia Sands, CEO, South London Refugee Association

Sara Robinson, Centre Director, St Augustine's Centre, Halifax

Lee Dema, Project Manager, St. Matthew's Project.