



**Submission to the  
Independent Review of the Children's  
Commissioner for England**

October 2010

## About Children England

Children England is the leading membership organisation for the children, young people and families' voluntary sector. With member organisations working in all parts of the country ranging from small local groups to the largest household names in children's charities, Children England is in a unique position to use the collective voice of the voluntary sector to achieve positive change for children. Children England provides capacity building, support and information to its members and the wide range of voluntary sector organisations working with children, young people and families. It does this by building active networks, promoting good practice, stimulating policy debate and ensuring that the issues that matter most to its members are taken up with decision makers.

Children England is committed to working alongside its members in the creation of a society where children and young people are valued, protected and listened to, their rights are realised and their families supported.

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## Introduction

1. Children England welcomes the opportunity to contribute to the Review of the Children's Commissioner's Office. All of our members are signed up to our mission of making children's UNCRC rights a reality, and we have therefore been able to advocate strongly on behalf of our members, both at the time of the creation of the Commissioner in 2004, and now, about the shared belief across the voluntary sector in the need for a truly independent and strongly empowered champion for the rights and freedoms of children.
2. We have played an active part in the coordinating group of NGO's brought together by the Children's Rights Alliance for England that has agreed a set of minimum requirements for a human rights body for children.  
<http://www.crae.org.uk/news-and-events/news/time-for-englands-children-and-young-people-to-get-a-strong-childrens-rights-champion.html>  
We therefore commend the Review team to the documents and position submitted through CRAE, to which we are signatories, and we have not repeated all of those points in this submission.

## Achievements and performance

3. During the course of its work and establishment Children England and many of our members have worked well with the Commissioner's Office, including several areas of partnership working. We have found them to have a strong and consistent focus on the views and perspectives of children (as their statutory basis demands). We would particularly cite the reports and work they have done to raise the plight of children in immigration detention as work that has been highly respected and regarded as powerful and rights-focussed within the wider sector.
4. It should be acknowledged that there has also been disappointment within the sector that the Commissioner's Office has not taken a stronger or more vocal public stance of strong challenge to Government on other areas of concern for the rights of children, such as children in prison. However that disappointment is, we believe, rooted in the weaknesses and inadequacy of the powers of the office in its statutory foundation. We never believed, and still don't, that the real need is for yet another body seeking to have 'strategic influence' on behalf of children – which is what the Commissioner's Office has largely been given the powers to do. The need is for an empowered human rights body, with the legal powers to hold bodies to account, and to take and support legal challenge, if it is to have the 'teeth' to make a real and distinctive difference.

5. We believe that the current position also leads to some confusion between the role of the Commissioner's Office and that of the children, young people and families' voluntary sector which has a long history of strategic influence for children and giving voice to their concerns. Perhaps this confusion has been at the root of the "arms length" involvement children's charities have been afforded to date. We hope going forward there will be an opportunity to increase the support and engagement of children's charities, in both a formal advisory capacity and informally, as fellow advocates and champions of children's rights.

### **Rights basis**

6. We strongly believe that the Commissioner's Office should have the statutory function of promoting and implementing children's rights (under the UNCRC and the Human Rights Act). Children's rights and freedoms are a firm, consistent, internationally comparable standard on which to base the work of the Commissioner's Office, and by which to judge our national provisions for, and standards of treatment of, children and young people.
7. The case for having a distinct and empowered human rights body dedicated to children and young people is premised on the belief that they are citizens in their own right, whose distinctive needs and circumstances warrant particular attention and concern. The UNCRC is the only comprehensive articulation of the status, needs and entitlements of the child as a citizen of society. As an obligation of the UK State, under international treaty, implementation of the UNCRC would also provide a founding purpose for the Commissioner's Office that would be truly politically independent, by providing a consistent basis for its work throughout the changing prevailing policy frameworks and priorities of different political administrations.

### **Additional powers or role**

8. As signatories to the minimum requirements, we believe there are several areas where the Commissioner's Office should have greater powers – most notably in relation to the ability to take and support legal challenge on behalf of individual children, and in requirements for Government and public bodies to comply with and respond to the inquiries of the Commissioner's Office. We shall not repeat all of the detailed arguments made in that submission here.
9. We would like to focus attention here on the need for the Commissioner's Office to have a formal role in relation to children and young people's complaints about their services and treatment by public bodies. At the moment, this is an area on

which they have merely been asked by statute to conduct research. Our own research into complaints processes for children (to be published soon) has shown the inadequacy and complexity of most statutory complaints procedures for children and young people who would seek to use them. As Government now moves towards greater deregulation and decentralisation, with the aim of enabling greater autonomy and diversity across the public services that children and young people will use, it becomes only more vital that they should have clear, accessible routes of redress when they feel their treatment has been inadequate or inappropriate.

10. We believe it is therefore essential that the Children's Commissioner's Office should have a formal role in the 'chain' of complaints taken up by children and young people. We agree with the Commissioner's Office that the practicalities of their being able to take up any and all individual cases that children may raise would be greatly more costly and challenging in terms of delivery mechanisms. However we believe that the Commissioner should firstly encourage contact and advice-seeking from any individual children who are unhappy about their treatment or experience, and be able to guide and signpost them to the correct agencies and routes through which they can take seek redress. In cases where children have not gained affective redress, or where the Commissioner's Office believes they have not been dealt with adequately in trying to complain in the first place, the Commissioner's Office should be the 'last port of call' in the complaints chain. This would be both entirely consistent with their independence of role and with their function as advocates of the rights of the child.
11. In addition we believe it would be consistent with the Commissioner's current role in giving voice to the concerns of children and young people that the Office should publish regular reports on issues of common concern arising from the complaints children are making across a range of public services, with appropriate lessons and recommendations for improvement. This could provide significant cost savings to various services in addition to responding positively to children's views and experiences.

### **All children or vulnerable groups?**

12. We believe it is essential that the Commissioner's Office should have a remit for everyone under the age of 18 in England. In applying itself to the issue and areas of greatest concern for children's rights, it will be only right and proper that the Commissioner's Office may in practice focus its resources and attention on issues affecting some 'vulnerable groups' in particular. However any individual child may be vulnerable to human rights breaches, regardless of their circumstances, and whether or not they meet the defining criteria of a 'vulnerable

group'. Indeed it is the inherent vulnerability of **all children**, who have not historically enjoyed the rights and protections afforded to adult citizens, which necessitated the drafting and adoption of the UNCRC. Furthermore, there are many issues of great significance to children, such as bullying, and institutions such as the Family Courts that are not limited in their impact to particular vulnerable groups.

### **Separated or merged?**

13. The principled case for a strong children's rights commissioner lends itself to a discrete institution, not least because of the practical demands that it be open and accessible to children of all ages and abilities, perceived by children as a body especially for them, and that it should have lines of accountability and governance that are appropriate to its focus on children.
14. In pragmatic terms, we do recognise that there may be cost-savings and other benefits that could be gained by the Children's Commissioner's Office being part of the Equalities and Human Rights Commission. As there is a diversity of views across our membership on the merits of either option, we do not take a particular position here, except to state that there is no *other* body (other than the EHRC) with which any merge could be considered appropriate. In the event that incorporation with the EHRC is chosen, however, it will be important to enable there to be a distinct structure for the Children's Office within it – a distinct Commissioner, with a child-focussed governance board, reporting to the appropriate children's committee in Parliament, and an office and working procedures entirely designed to be appropriate and accessible for children.