BMA response to the Joint Committee on Human Rights inquiry into the UK’s record on children’s rights

About the BMA
The British Medical Association (BMA) is a professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. On average our membership this year has been around 170,000.

Executive Summary
The BMA has a longstanding interest in human rights, and has worked for many years to promote fundamental human rights in the context of healthcare. This has included drawing attention to abuses of such rights involving doctors and healthcare professionals around the world and advocating for individuals and marginalised populations experiencing infringements of their health-related rights in the UK and internationally.

The BMA supports and recognises the importance of many of the recommendations contained within the United Nations (UN) Convention on the Rights of the Child fifth periodic report, which seeks to provide an assessment of the rights of children living and growing up in the UK. We also welcome the Joint Committee of Human Rights’ inquiry into the UN report and seek, through this submission, to provide an overview of BMA views, research and priorities in relation to some of the report’s key recommendations. This is not an exhaustive summary of the BMA’s position on the recommendations made in the UN report. Key points contained within this submission are:

• The BMA supports placing a duty on public bodies to conduct a child rights assessment, to protect children’s rights and calls on the joint committee to explore this issue further.
• We strongly agree that restraint should only be used against children to prevent harm to the child or others. In addition to this we seek the Joint Committee’s support for the introduction of measures to ensure that healthcare professionals in a secure setting can raise concerns relating to misconduct that has, or may lead to harm to others, such as the inappropriate use of restraint against children and young people.
• The BMA is supportive of the UN Committee’s recommendation that government collects and publishes data on the use of restraint and other restrictive interventions on children in order to reduce instances where such force is not necessary.
• We are concerned that the government’s welfare reform policies such as the combined effect of lowering the benefits cap and changes to the universal credit work allowance will significantly reduce the income of thousands of already struggling families. We recommend that child health strategies, which focus on addressing imbalances in society based on austerity should form a key consideration for the joint committee.
• We believe that improving children and young people’s mental health should be a priority area for the joint committee to take forward future work on. The BMA supports the UN Committee’s recommendations to regularly collect comprehensive data on child mental health; increase investment in mental health support such as Child and Adolescent Mental Health Services (CAMHS) and to end the practice of sending vulnerable young people to inpatient units far from their local support networks.
• The BMA is committed to tackling increasing rates of obesity amongst children and young people and asks the Committee to consider both BMA and UN recommendations to address the obesity epidemic as a matter of urgency. In particular we are concerned about the impact of marketing of unhealthy products on children and young people.
The BMA supports recommendations to address and ultimately eradicate child poverty and particularly call for the UK government to reestablish its statutory target to end child poverty by 2020.

**Recommendation 10: Child Rights Impact Assessment**

1.1. The BMA supports recommendation 10 in the UN Committee on the Rights of the Child (‘the UN Committee’) report which advocates that, when developing laws and policies that affect children, the body implementing the law or policy should conduct a child rights assessment.¹

1.2. The PSED (public sector equality duty) requires public bodies to have regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities, such as policy implementation.² The BMA recognises that currently children and young people in the UK are excluded from the PSED which means that such bodies do not have a specific duty to undertake an assessment of how all policy and activities which they implement will impact upon children and young people’s wellbeing. In practice, this means that such bodies do not have a specific duty to undertake an assessment of how all policy and activities which they implement will impact upon children and young people’s wellbeing, in the same way that such a duty exists to take into account the impact on older people aged over 60 under the 2010 Equality Act.

1.3. The BMA considers that the lack of such a duty negatively impacts on the design and subsequent provision of health services for children and young people, including mental health and sexual health services, and healthcare support for sexual abuse survivors. Without a duty to undertake a children’s impact assessment across health policies, barriers can be allowed to exist which result in non-age-appropriate treatment for various health conditions. In addition other young people are caught in an unclear transitional period between child and adult health and social care services.

1.4. The BMA’s 2003 report *Adolescent health* calls for adolescent health services to be provided in ‘an age-appropriate environment’.³ The report recommended guidance be produced centrally⁴ to ensure ‘the provision of age-appropriate mental health services and facilities’; and allow for the identification and use of age-appropriate pathways for children and young people with differing mental health issues and chronic illnesses.

1.5. The BMA believes that guidance, could be incorporated into the National Service Framework for Children, produced by the Department of Health and used to support a requirement to undertake a child impact assessment, across all policies.⁵ We believe such an approach, in line with the UN Committee’s recommendations, will begin to address some of the inequality which currently exists in the provision of children’s health services.

1.6. Further information on children and young people’s access to mental health services is available in point 4.2 of this submission.

**Recommendation 40: Violence against children**

2.1 The BMA agrees with recommendation 40 to abolish the use of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and to ban the use of any technique designed to inflict pain on children. We also support the UN Committee’s

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² Part 3 of the Act concerning discrimination in relation to services and public functions does not apply to the protected characteristic of age ‘so far as relating to persons who have not attained the age of 18’ (s. 28(1) of the Equality Act 2010)
⁴ Supra note 1, 61
recommendation that restraint should be used against children ‘exclusively to prevent harm to the child or others and only as a last resort’.

2.2 Despite the Ministry of Justice’s assurances that restraint should only ever be used on children and young people where absolutely necessary, and where no other form of intervention would be appropriate\(^6\), there is a body of evidence which shows that restraint is routinely used as a punishment or as a way of managing challenging behaviour: in our report *Young Lives Behind Bars*, we point to data which show that incidents of restraint have been rising year on year.\(^7\) We also express concern about the physical consequences (the use of restraint can often lead to injury, and has been definitively linked to at least one death in custody), and the profound psychological impact the use of restraint can have on children and young people (particularly those who have a history of physical or sexual abuse).\(^8\) The links between the use of restraint and self-harm and suicide have not been explored in detail, but evidence emerging from the inquests into the deaths of some of those in custody highlights the severe distress the use of restraint can cause, and draws attention to the fact that almost universally, the children and young people who died in custody had been exposed to treatment such as restraint and segregation prior to their deaths.\(^9\)

2.3 The BMA is also supportive of the UN Committee’s recommendation that the state ‘systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children in order to monitor the appropriateness of discipline and behaviour management for children in all settings, including in custody and mental health settings’. In addition to this we are keen that the joint committee also supports the introduction of measures to ensure that healthcare professionals and any other members of staff working in a secure setting can raise concerns if they are aware of misconduct that has or may lead to harm to others, such as the inappropriate use of restraint.\(^10\) Health professionals must not be victimised for raising a concern, and should receive protection in law from harassment and bullying, in order to facilitate the protection of some of the most vulnerable children and young people in society. The BMA has produced guidance on raising concerns and whistleblowing, which may be of help to the joint committee if it chooses to consider this area further.\(^11\)

**Recommendation 59: child health strategies**

3.1 The BMA supports the UN Committee’s call in recommendation 59 for the delivery of ‘comprehensive and multisectoral strategies on child health’.\(^12\) The BMA has long upheld the importance of protecting and promoting the wellbeing of children in the UK, calling for the government to provide adequate resources for family support; increase and protect investment in child and adolescent mental health services, and for government to improve the quality of social and other housing.

**Recommendations 60 and 61: Mental Health**

4.1 Evidence shows that over half of all mental ill health starts before the age of 14, and 75% has developed by the age of 18.\(^13\) Because of this the BMA believes that the UN Committee recommendation to regularly collect comprehensive data on child mental health is important to understanding the nature and true extent of mental ill-health amongst children and young people. We also agree with the UN

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\(^8\) Ibid., 46-47.

\(^9\) Ibid., 45.

\(^10\) Ibid., 51.


\(^12\) Supra note 1, 59.

Committee, that there is a need to invest in child and adolescent mental health services with particular attention to children at greater risk, including children living in poverty, children in care and children in contact with the criminal justice system.

4.2 The BMA is greatly concerned therefore that children aged 16 and 17 are shown to be particularly vulnerable to less favourable treatment from health services than adults or younger children, which can be due to a lack of services or of age-appropriate service provision. Inequality in access has similarly been highlighted by the Joint Chief Inspectors’ 2005 report of safeguarding services for older children stating that ‘young people aged 16-18 with a mental health condition or a chronic illness’ received ‘insufficient priority’ from children’s health and social care services. The Social Exclusion Unit also stressed the critical nature of age boundaries for children and young people, highlighting the ‘often abrupt ending of services once a young person reaches a certain age, and again highlighting the sometimes poor transition between youth and adult services’. To address this the BMA believes government policy across all departments should be assessed for impact on children’s rights, and on children and young people’s mental health so that cuts in one area (eg to local authority funding, housing and disabilities benefits) do not negate the benefits of additional funding for CAMHS. This is in line with our support for UN Committee Recommendation 10 as outlined at the beginning of this submission.

4.3 The UN recommendation calling for rigorous investment in child and adolescent mental health services is another recommendation which the BMA strongly supports. At its 2016 annual representative meeting (ARM) the BMA passed a motion condemning the practice of sending vulnerable young people to inpatient units far from their local support networks, because of continuing bed shortages. The BMA therefore wholeheartedly supports this UN recommendation and calls for the Joint Committee to explore this further. The BMA welcomes NHS England’s announcement of six mental health pilot sites across the country, which have been tasked with putting an end to the practice of adults and young people with mental health problems being sent for inpatient treatment miles away from home. We hope that this will be the start of improved provision across the UK and call on all councils and providers to work together with a sense of urgency for care closer to home, and on government to provide funding for this as an immediate priority.

4.4 Investment in child and adolescent mental health services is of particular importance in the youth secure estate, where the prevalence of mental health disorders can be particularly high. Children and young people who are detained should be able to access the same range and quality of health services as in the community, yet despite the level of need, mental healthcare provision in secure settings can be variable. We believe that the development of high-quality mental health services in secure settings should be a key priority as part of any broader investment in child and adolescent mental health services.

Recommendation 66: Nutrition

5.1 The BMA echoes the UN Committee’s concerns regarding the increasing rate of obesity amongst young people in the UK. We support the UN Committee’s recommendations in relation to data collection for food security and nutrition for children; to monitor and assess the effectiveness of policies and programmes on child food security and nutrition and to promote, protect and support breastfeeding. The BMA 2015 board of science report, Food for thought: promoting a healthy diet among children

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15 Supra note 11
16 Joint Chief Inspectors (2005) Safeguarding children. The second joint chief inspectors’ report on arrangements to safeguard children, OFSTED
17 Social Exclusion Unit (2005) Transitions: Young Adults with Complex Needs, London: Office of the Deputy Prime Minister, 2.59
and young people, brings together a range of policies targeted at addressing some of these concerns, and includes the following recommendations:

- greater collaboration between schools and local authorities to deliver a whole-school approach to healthier diets
- prohibition of the marketing of unhealthy food and drink products to children and young people
- prevention of the marketing via non-broadcast media that appeals in any way to children and young people
- prohibition of any sponsorship of events, activities, individuals or groups that appeal in any way to children and young people
- restriction of marketing and sponsorship of unhealthy food and drink products in schools
- a ban on retailers from displaying unhealthy food and drink products at checkouts and in queuing areas, targeting children
- introduction of legislation to ensure that all mandatory food standards apply to all academy schools and free schools
- provision of a free fruit and vegetable scheme to all primary school children throughout the UK, five days per week.

5.2 In addition to these recommendations the BMA has published an update on child nutrition\textsuperscript{19}, which forms part of a series looking at developments since the BMA published its report \textit{Growing Up in the UK}.\textsuperscript{20} Specifically this update reflects the UN Committee’s concerns that effective data collection is not taking place. The BMA reports that increasing loss, or change, in data collection, and delays in publication of surveys and reports has impacted upon understanding of the current childhood obesity crisis in the UK.\textsuperscript{21} The BMA is particularly concerned that the long awaited review from The Scientific Advisory Committee on Nutrition (SACN) on complementary and young child feeding and the evidence reviews commissioned for this report have not been published; the UK wide Infant Feeding Survey for 2015 was also cancelled, and no national nutrition surveys of school meals are now undertaken. We recommend that the Joint Committee treats the issue of nutrition and the UN Committee recommendations as a priority for future work.

Recommendation 69: Air pollution

6.1 The BMA emphasises in its report, \textit{Healthy transport = Healthy lives} that many of the health harms associated with the transport environment can be offset through policy actions\textsuperscript{22}. With demand for transport increasing, we believe that health improvement must be an objective in all future transport planning decisions and recognise the importance of making the right decisions, and considering the impact on the health of the community as a whole, and in particular to reduce air pollution levels, in areas near schools and residential areas. In line with this approach the BMA supports the UN Committee recommendations to set out a clear legal commitment to place children’s rights at the centre of national and international climate change adaptation and mitigation strategies.

6.2 The BMA is a member of the UK Health Alliance on Climate Change, which brings together the UK’s leading health institutions and represents some 600,000 healthcare professionals. We support their ongoing work in this area, including their upcoming report, \textit{A Breath of Fresh Air} due to be published at the end of October 2016. If the committee decides to consider the impact of air pollution on children’s health in more detail, as part of its future work, we recommend that the Committee consult further with the Alliance in this regard.

\textsuperscript{19} BMA, Child nutrition, Dr Helen Crawley, https://www.bma.org.uk/-/media/files/pdfs/working%20for%20change/improving%20health/child%20health/izuuk-2016-progress-report-child-nutrition-crawley.pdf?la=en
\textsuperscript{20} British Medical Association (2013) \textit{Growing Up in the UK: Ensuring a healthy future for our children}. London: BMA.
\textsuperscript{21} Supra 18, p.2
\textsuperscript{22} BMA, \textit{Healthy transport = Healthy lives}, 2012, p.6
Recommendation 59, 70 and 71: Standards of living

7.1 Doctors are concerned about the impact of austerity and associated welfare reform on health and wellbeing, and believe governments need to do more to protect the most vulnerable and disadvantaged in society who suffer a disproportionate burden. In the BMA report’s, *Cutting away at our children’s futures: how austerity is affecting the health of children, young people and families* and our Board of Science briefing *Health in all policies: health, austerity and welfare reform*, we explore the impact that poverty can have on children and young people’s health, and how disadvantage in childhood can result in lifelong health inequalities\(^{23}\). Specifically we are concerned that the government’s welfare reform policies such as the combined effect of lowering the benefits cap, four year benefits freeze, and changes to the universal credit work allowance would significantly reduce the income of thousands of already struggling families, increasing levels of child poverty and exacerbating the many risks to children’s health. In accordance with the UN Committee recommendation 59, we believe that child health strategies, which focus on addressing imbalances in society based on austerity should form a key consideration for the Joint Committee.

7.2 In line with the UN Committee’s recommendation 71, we also believe it is important to focus on eliminating inequalities in health outcome and address underlying social determinants of health through assessment of the impact of cuts and welfare reforms, and where necessary undertaking reductions of these strategies, should they prove to be damaging to children and young people’s wellbeing. We particularly condemn the UK government’s decision to repeal the statutory target to end child poverty by 2020 and strongly support the UN Committee’s recommendation 71a to re-establish concrete targets for eradicating child poverty. We would also draw the joint Committee’s attention to some initiatives such as the Getting it Right for Every Child (GIRFEC) in Scotland, which takes an individualised approach to support, and suggest that UK government focus on taking evidence based approaches from across the UK and international programmes to create initiatives to better identify and support vulnerable young people to ensure that they have an equal start in life across all measures including health and wellbeing.

7.2 Those living in temporary housing often have heightened insecurity and uncertainty, and there is clear evidence that children and young people’s mental health and emotional wellbeing is adversely influenced by factors such as poverty, poor housing, parental mental health, and unsafe neighborhoods.\(^{24}\) The BMA supports implementation of the legal prohibition of prolonged placement of children in temporary accommodation by public authorities in England, Wales and Scotland, and calls on the government to take necessary measures to reduce homelessness and to progressively guarantee all children stable access to adequate housing that provides physical safety and protection against threats to health and structural hazards.

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\(^{24}\) BMA, *Children and young people’s mental health*, Dr Jessie Earle P.2