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Committee

Appointment of the Children's Commissioner for England

Eighth Report of Session 2008–09

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Oral and written evidence

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The Children, Schools and Families Committee

The Children, Schools and Families Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Children, Schools and Families and its associated public bodies.

Membership at time Report agreed

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Maggie Atkinson, the Government's preferred candidate to take up the post of Children's Commissioner for England

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Oral evidence

Taken before the Children, Schools and Families Committee on Monday 12 October 2009

Members present:

Mr Barry Sheerman (Chairman)

Annette Brooke
Mr David Chaytor
Paul Holmes
Mr Andrew Pelling

Helen Southworth
Mr Graham Stuart
Mr Edward Timpson
Lynda Waltho

Witness: Maggie Atkinson, the Government's preferred candidate to take up the post of Children's Commissioner for England, gave evidence.

Q1 Chairman: Maggie Atkinson, welcome to this Committee. This is a first for us: it is the first time that we have had a pre-appointment hearing for one of the four appointments for which we are able to have pre-appointment hearings. We are not too formal in this Committee; how do you prefer to be addressed? Maggie Atkinson, Maggie, Mrs Atkinson, Ms Atkinson?

Maggie Atkinson: Maggie is fine.

Q2 Chairman: Okay. Before we get started, is there anything that you want to say to the Committee about this amazing job that you seem to be the favoured candidate for?

Maggie Atkinson: I think that it is an amazing job, Chairman, as you have just labelled it. The opportunity to have a statutory role to speak for, and on behalf of, children and young people to those in very important policy roles, both locally and nationally, seems to me to be a chance not to be missed. The commissioner has been in place for five years and started the role. There is now a chance for a second term under a new commissioner to move the role forward even further. So I am very excited by the role—scared to death, but very excited none the less.

Q3 Chairman: But you will be moving from a job where you had real executive power and really made things happen—you could go home every night sure that children were safer, because you did your job well, than they would have been otherwise—to a job that many people think does not have much power and has very little influence.

Maggie Atkinson: Chairman, I think that you overestimate how powerful a Director of Children's Services truly is in practice on the ground. The role of a DCS is very much about influence. Although I have a statutory duty and indeed a statutory power to require people to co-operate under a Children's Trust, I do not employ most of those people, I am not responsible for their pay and rations. In most circumstances in most parts of the country, successful Children's Trusts are about good will and people taking the time to listen to each other, as well as to the children, young people and families for whom they provide services. Very often, those trusts come to agreement by compromise, patience and mutual respect and understanding. Therefore,

although the team that I am leading at 11 Million is far smaller than the one that works within a Children's Trust, there are significant similarities between the two roles—the Director of Children's Services in a locality and the Children's Commissioner for England.

Q4 Chairman: If you look at some of the comments by your predecessor, Al Aynsley-Green, and at some of the things that he told this Committee when he regularly came to meet us, there was a feeling, towards the end of his time, of disillusionment, that he was the weakest of the UK Children's Commissioners and had less power than the other UK Children's Commissioners. One felt that he retired from the post a little early because he was a little disillusioned about the frustrations of not being able to make enough impact.

Maggie Atkinson: I cannot speak for Sir Al, of course. I know him and I have worked with him; he was president of the north of England conference when we hosted it in Gateshead in 2006. So I have worked alongside him and worked with him and young people. The four Children's Commissioners in the UK are different from each other. Only the Scottish commissioner is independent, but it is still a royal appointment. The others, including the English one, are all non-departmental public bodies. I think that the role is what the commissioner makes of it, to be honest. The Children's Commissioner for England has very significant powers of entry, for example, into some fairly important parts of the children and young people's estate, not least young offenders institutions and places like Yarl's Wood. Should significant numbers of young people raise an issue with the commissioner, the commissioner has the power to institute whatever inquiries need to be made if the weight of evidence is such that there is a need for them to look at those things. Again, you are back to influence. You are back to not wielding a big stick and to engaging not only children and young people but those who run services for them in ways that mean that there is a sense of being engaged in a mutual endeavour. Statutorily the powers may not be as Sir Al would have wanted them to be; you would need to rewrite primary legislation to make them stronger and that would mean a bit of a delay. It seems to me that you would also need to review significantly the entire role, when there is work to be

done. I can appreciate that Sir Al feels that, in comparison with some of the other UK commissioners and with some of the commissioners in Europe, the powers may be somewhat constrained. Nevertheless, I do not see that the formal constraints upon the role mean that the commissioner cannot have a very strong voice.

Q5 Chairman: You have a formidable CV but one thing that you do not have, from my reading of your background, is much experience in public relations. Indeed, the one thing that most children's directors do not want is publicity, although they sometimes have better or worse competencies in dealing with the media. Some people were perhaps hoping that we would get Esther Rantzen or Joanna Lumley in the role of Children's Commissioner. You are not a high-profile public figure, are you?

Maggie Atkinson: Last year felt fairly high-profile. You'll know that I was president of the Association of Directors of Children's Services during the year when the horrors of the Baby Peter case broke. I seemed to spend a good deal of my autumn and well into the winter and, indeed, into the spring talking to either the print or the broadcast media. What we were doing was putting across a very strong case that not all the system is broken. I was on the "Today" programme, BBC News 24, Sky News and Radio 5 Live; I was in *The Guardian*—

Q6 Chairman: What I'm saying, Maggie, is that you are a very highly qualified, competent public servant—

Maggie Atkinson: Thank you.

Chairman:—but have you got the flair for this job?

Maggie Atkinson: I consider I do, yes. The selection process having been as rigorous as it was, I was appointed against a strong field. That was made clear to me from the off.

Q7 Chairman: So you saw off Esther Rantzen and the rest?

Maggie Atkinson: I don't know who else was in for the role, apart from one candidate who is the current deputy commissioner, who is a very fine civil servant and an extremely good chief executive of the organisation. I don't know who else I was up against.

Chairman: Okay. Let's press on then and ask Graham to lead the questioning.

Q8 Mr Stuart: Welcome. We've had much talk of bonfires of quangos. We have, in the Children's Commissioner, one that has no formal powers, which differs, as you've already said, from elsewhere in the United Kingdom. The current incumbent, the first incumbent, is obviously rather disillusioned at the end of it. Isn't it just the sort of powerless, toothless quango that should be abolished?

Maggie Atkinson: With respect, it is not a quango; it is a statutory body, under part 1 of chapter 31 of the Children Act 2004, so it isn't a quango. That is the first thing to say. I don't know that Sir Al has led a toothless organisation. Look at the work that the organisation has done with the UK Border Agency.

In the last year, a great deal of the work of the commission has been gradually to get the UKBA to work much more constructively with previously incarcerated asylum-seeker and refugee children. The statements that have been made in the report by 11 Million on guns and knives in the hands of young people are, I think, potentially very strong steers of policy in future. I also think there's a lot to play for. The commissioner has been in and out of, visiting, young offenders institutions and very often makes exactly the same criticisms of them as the Chief Inspector of Prisons. The commissioner has spoken with and has a good relationship with the Association of Chief Police Officers.

Q9 Mr Stuart: Sorry to interrupt, but you just said that the commissioner makes exactly the same criticisms as the Chief Inspector of Prisons. Precisely. There is no delineated role for this commissioner. You are going and duplicating the work of someone whose voice is already there, already stated, and who has the expertise, the oomph and a lot more clout—they do not get enough clout, but they have more clout than you'll have.

Maggie Atkinson: The distinction between Dame Anne Owers's work and the work of this commission is that this commission's reports are driven through by the words and feelings, the interests and the wishes and wants of children and young people. That's the difference. You get the view of nought to 19-year-olds.

Q10 Mr Stuart: That's a very good point, but why do we want to have some member of the establishment like yourself put up as the spokesman when we have the UK Youth Parliament? Surely it would be better to hear the undiluted, authentic voice of young people coming through an enhanced UK Youth Parliament, rather than having somebody seemingly speaking for everybody when they obviously will speak largely from their own opinion, however hard and however well they listen.

Maggie Atkinson: There is a difference with members of the UK Youth Parliament. I was with one of mine only two days ago, just before the weekend. The difference is that he's a full-time student and his place in the UK Youth Parliament is in addition to what he does in the rest of his life. He is studying to be a lawyer, as it happens. The Children's Commissioner is full-time employed to express the views of children and young people—and sometimes to explain to children and young people why the system is saying no to those views—to policy makers, to those in power, in ways that, with the best will in the world, somebody who's being educated full time does not have the time to do.

Q11 Mr Stuart: Thank you. That leads me on neatly to the issue of independence. Your role, if you are appointed, will be to give voice to young people and to their interests. However, looking at your CV, in 2008 the Secretary of State appointed you as the external chair of the national expert group on children workforce. In 2009, you were appointed by the Secretary of State to chair a new national

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children and young people's workforce national partnership. You appear to be absolutely steeped in the educational and children's workforce establishment and the likelihood is that at the end of your five years you will return to that world. So, in terms of your ability to convince people on the outside, I am not trying to suggest for one minute that you are not a person of the highest integrity and independence of mind, but in this role is it not important, and would it not have been preferable, to have somebody who was not coming fresh from the patronage of the Secretary of State and was in fact coming from the outside, able to act independently and was not going to return to dependence on the patronage of the Secretary of State for future employment thereafter?

Maggie Atkinson: I take issue with the use of the word "patronage" twice in that sentence. I was the externally appointed independent chair of the children's workforce expert group and I will chair my final meeting of the national partnership on the children's workforce on 24 January, after which I will step down. At the end of my five-year term I will be 58 and I really don't know whether I would want either a second term at this job, or a full-time job of any sort, either within or beyond the establishment. I have been president of the Association of Directors of Children's Services. One of the things that the ADCS has been extremely good at, it seems to me, is welcoming policy when policy has been right-minded, and being extremely robust when it has not. It was me as president of ADCS who insisted that the entire system was not broken just because—however tragic and however awful—that baby Peter died in Haringey. I am fearlessly independent.

Q12 Mr Stuart: Can I ask what you think you bring that is distinctive?

Maggie Atkinson: For the first time the appointment will go to somebody who has actually delivered Every Child Matters on the ground for the last five years in a locality in England faced with all the difficulties of saving money while keeping children safe, well, happy and achieving at school. It is a natural next step for somebody who has done that job very well in a locality.

Q13 Mr Stuart: Given your establishment track record, do you plan to speak truth to power on behalf of children without fear or favour?

Maggie Atkinson: I don't think you should recommend that the Secretary of State gives me the job, or the Secretary of State should have recommended me as the Government's preferred candidate, if he were not certain that that is what I would do.

Q14 Mr Stuart: Secretaries of State are famous for appointing people precisely because they will not speak truth to power, so I would not take any reassurance on that; I would rather take your word for it. If you are prepared to do that, can you tell us whether the current commissioner has made any mistakes, and if so, what they are?

Maggie Atkinson: That I will speak truth to power is my assurance—that is the first thing I would say. I think that the current Children's Commissioner for England has perhaps not always listened to what is going on at the points of delivery in the system as well as he might have done before making pronouncements about that system. While I will not be in the pocket of that delivery system, I will listen to and learn about what is going on through that delivery system before I make pronouncements. There have also been times when arguments have happened through the media, which should better have happened in more measured and tempered ways.¹

Chairman: I want to take you across to Lynda now.

Lynda Waltho: You stole my thunder again, Chairman; you always ask my questions.

Chairman: She always blames me for this.

Q15 Lynda Waltho: Maggie, I would like to ask you what you think you can bring that is different. Why did you beat the other candidates? I want you to tell me how good you are and why, but I want to know how—really, following on from Barry—will you be different from the previous incumbent and how will you make sure that you really are the authentic voice of young people?

Maggie Atkinson: Can I start with the second of those two bits first? One thing that I think I need to do in the first year is to go out to all the government office regions and meet the elected youth assemblies and youth councils in as many local authority areas as possible and listen to them. However, I would also like to go out and meet representative groups of the schools councils of the country. I think that there is a need for the commissioner to go the furthest ends—to Berwick-upon-Tweed, Falmouth and so on—rather than necessarily into a fairly narrow geographical area. I don't know whether Sir Al has managed to get all the way around the country, which I think is a really important thing to do first off. I said it in my interview and I will say it again here: it is very important that the commissioner's first concern is for the children who are most vulnerable and least likely to have a voice of their own or who, if they have a voice of their own, are unable to express it and have it heard. However, my youth assembly took me to one side the day after I was announced by the Secretary of State and, in a scrutiny session, said that they were keen that I also bring to the role a notion of broadening it, under the positive contributions strand of the commissioner's remit, to do things such as ensuring that the issues that bother children and young people every day, even if they are in stable homes and doing very well in school or college, are brought to the ears of policy makers. Issues for the Gateshead youth assembly's policy advisers—I can only give you examples from there at the moment—include climate change, the green agenda, sustainability, transport and access to higher education, including access for those who have no money. They raise parenting issues very

¹ *Note by witness:* This statement is not an implied criticism by the witness of the person concerned, but a reflection on the relative maturity of a new post created only 5 years ago.

strongly. Those who are in or on the edge of the looked-after system want a country that enables them to be better parents themselves and have better parenting skills than those they experienced in their own childhoods. The commissioner has a role in going out to listen to those youngsters who are not as vulnerable as some of the others and bringing their general and universal issues back into circles of power. That brings me to why I will be different. For me, that concentration on the most vulnerable was a natural thing to do in the first five years of the role. To be relevant to all the 11 million-plus children in the country, you have to go out and talk to them about what their issues are in general. That means talking to the ones who are going to get a bucketful of GCSEs and go to Cambridge as well as to the ones who are not going to get anything and will need support and help throughout their lives. I think that the next five years will potentially be really exciting for the role and will see a broadening of its spectrum and focus, and it will do that under the positive contributions strand.

Chairman: We will now go on to David.

Q16 Mr Chaytor: Can I ask about the recruitment process and start with the advertisement? The advertisement said “Father Christmas. The Tooth Fairy. The Easter Bunny. Children’s Commissioner. Are you someone to believe in?” Which of the three attracted you to apply?

Maggie Atkinson: None of them. I had a go at the recruitment consultants, I’m afraid, because I felt that the advert had the potential to lose possible candidates by doing something that was actually pretty patronising, and it wasn’t exactly the way I would have advertised an important role like this one. The materials in the recruitment pack were absolutely fine, when one got past gagging on the advert. The recruitment process itself was rigorous, as you would have expected it to be. The advert—hmmm, that is what I would say about the advert.

Q17 Mr Chaytor: The advert had “Children’s Commissioner” in big type, but “11 Million” got one little reference in the text. Do you think it was a terrible mistake to call the organisation 11 Million?

Maggie Atkinson: I don’t think it was a terrible mistake, but I’m not sure how future-proof it is, because my indication from the Office for National Statistics is that we are actually moving fairly close to 12 million.

Q18 Mr Chaytor: Would you then call it 12 Million if the figures justified it?

Maggie Atkinson: What happens if the figures move to 12.5 or 13 million? I think that the one thing about calling it 11 Million that was a piece of genius is that that actually brings you up short and makes you realise that more than 1 in 6 of this country’s population are aged nought to 19. That makes them citizens now. I would hesitate to change its name lightly, because 11 million is a significant number. It is not, however, as accurate as it might be, as the birth rate grows.

Q19 Mr Chaytor: Do you think it has some brand recognition among the nation’s young people?

Maggie Atkinson: I think it is beginning to, but I come back to your colleague’s question, because it will gain greater and greater recognition as the spectrum of issues that young people bring to it broadens so that they can be brought into the policy remit.

Q20 Mr Chaytor: Once you had been shortlisted you were required to give a presentation on the most important issues facing children and young people, and a group of young people was involved in that. Do you think that’s a good idea?

Maggie Atkinson: I think it’s an excellent idea. I’ve experienced it twice now in my career. If you’re going to be the sort of post holder that is going to have regular contact with, and a constructive and hopefully powerful relationship with children and young people, and you appoint somebody who doesn’t like them very much or to whom they can’t speak, or who they feel won’t listen to them, you are on a bit of a hiding to nothing. They were very well briefed; they were properly chaperoned by two adults in the room, who took notes; they were very articulate and very engaged in the process; and actually they were as searching as the adult panel the next day, but in a different way.

Q21 Mr Chaytor: But if it is such a good idea, why weren’t they invited back for the final interview?

Maggie Atkinson: You would probably have to ask the Department that question, but I would guess that the main reason is that this is an appointment of government, albeit to a corporation sole and non-departmental public body. I would guess that, in the same way as localities do this, you use your children and young people’s panel to ask wide-ranging and sometimes quite challenging and daring questions that are not about the nuts and bolts of doing the job. The final panel interview is about the nuts and bolts of doing the job—“How will you relate to Ministers? What happens if you don’t get your own way? How are you with the media?”—whereas the children and young people wanted to know what I thought was bugging children and young people across the country and to tell what they’d want me to say on their behalf. The two events were very different indeed.

Q22 Mr Chaytor: How do you reconcile your defence of the involvement of children and young people at the shortlisting stage with your response to Graham’s question about leaving representation to the UK Youth Parliament? Because there you were saying, “Well, these are all part-time young people with other preoccupations,” and that they couldn’t possibly be trusted to get their judgments right, but here you are saying, “This was a really good idea and it should be built into the system.”

Maggie Atkinson: Absolutely. That young people’s group was, of course, the Children and Youth board of the DCSF, which now and again—

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Q23 Mr Chaytor: How do you get on the Children and Youth board at the DCSF?

Maggie Atkinson: I don't know.² They're from all over the country. They were from Manchester and Dudley—goodness only knows where they weren't from—and I gather, from the officials who briefed me about what they do, that now and again they are brought out of school or taken on weekend training in order to fulfil their roles. Now and again, they are asked to look at a piece of very specific policy that has a very direct effect on the rights and well-being of children and young people. They are not called on day in and day out to engage in that policy process—and they are not if you use them to help you in localities either.

Q24 Mr Chaytor: But they are hand-picked by somebody in the DCSF presumably? They are not elected or plucked out by a random process.

Maggie Atkinson: I honestly don't know whether they are an elected group or not. They may well be representatives of their own elected bodies in their own localities.

Q25 Mr Chaytor: Was there anything in the whole recruitment process, other than your concerns about the original output, that you would not adopt as good practice in running the Children's Commissioner's office?

Maggie Atkinson: I don't think there is about running the office. I think I would reflect back to you that a closing date of 2 July, for a first interview on 1 September and a second interview on 2 September, and some time in late September the call to tell you, is perhaps a tad long. I appreciate that it was advertised and closed, and that Parliament then broke for the summer recess, but I could have gone off and got a job in Madagascar between applying for this and being told I was the preferred candidate. In terms of being a candidate, it hasn't been stress-free.

Q26 Mr Timpson: You were asked earlier about independence. Can I ask you about that again in the context of the selection process and the charge that the selection panel itself wasn't independent enough and wasn't made up of the right type of people who should be making that very important decision? We had someone from the DCSF and someone from the Ministry of Justice, but would you have liked to see a different make-up and people who were perhaps more involved in the charitable sector for young people and children, for example, as opposed to people from within Departments, to make it a more independent process?

Maggie Atkinson: One of the panel was Sir Paul Ennals, who is chief executive of the National Children's Bureau. There was also a representative

of the Office of the Commissioner for Public Appointments, who was there to ensure that probity was followed and that the right questions were asked about my interests, potential conflicts and so on. Because Sir Paul is not only chief executive of the NCB but also engaged in the children's inter-agency group, which represents organisations such as the NSPCC, Action for Children, the Children's Society and others, I think he brought into that room the right balance of that sector. Children's and young people's services are delivered by an increasingly diverse sector, as you know, from early years through to youth work, children's homes and many schools. Sir Paul, because he brings that background with him, is, I think, a champion of that sector. Unless you were prepared to expand that panel to a cast of thousands, which would have made it a very diffuse and potentially unsatisfactory experience for both interviewers and interviewees, I am not sure how much further you could have gone. You could certainly have asked, for example, for somebody from a single-issue organisation—a charity—to come, but because the NCB covers a panoply of interests, from early years to young offenders, I think Sir Paul was the right choice, and he was certainly a very challenging interviewer.

Q27 Mr Timpson: Thank you for that. I think that what I was getting at was why was it necessary for there to be someone from the DCSF and someone from the Ministry of Justice making up half the selection panel, when, particularly with some of the criticisms made previously, we are trying to give the public confidence that this is a truly independent decision, as opposed to a decision made by a government department that may have a vested interest in the outcome?

Maggie Atkinson: Mainly I would say that those two Departments were chief among the represented ones; you could have had more. There could have been the Department of Health, for example, or others. I would say, and I did not make the panel up so I am guessing, that those two Departments particularly were represented because the DCSF is the sponsor department for this non-departmental public body and the Ministry of Justice is one of the ones into whose business the commissioner has a direct right of entry. I have the right to go into a young offenders institution without fear or favour, and I would say that there was a need for the Minister to have confidence that a senior civil servant from that Department was at least present. The other thing about this, of course, is that the commissioner has a duty to review how well Every Child Matters is being delivered, and the Ministry of Justice is one of the Departments that has "dual key" responsibility with the DCSF³ for the delivery of that strategy.

² *Note by witness:* The DCSF Children and Youth Board is made up of 25 children and young people under 18. They apply through local children's and youth organisations, they are selected by the National Children's Bureau through application and a selection day. They represent children of different ages, background, ethnicity and geographic location.

³ *Note by witness:* The label "dual key" is in inverted commas because, although Ministers from MoJ and DCSF have shared platforms and made joint statements as part of the implementation of the 2020 Children's Plan, it may be that formal arrangements labelled "dual key" are not in place as such.

Therefore, if what you are asking is, “Were they challenging enough?”, I have to tell you that yes, they were.

Q28 Chairman: Maggie, do you think that childhood is threatened in our country?

Maggie Atkinson: I am not so certain that it is threatened. I think that it is very difficult to see where children have the right to be children anymore. I am going to sound like my grandma: when I was a child, it was perfectly natural, on the edge of the mining village where I was brought up, to go off into the fields with a bottle of water and not be seen for nine hours—just off. I have absolutely no doubt that there were the same number of relatively dangerous adults about then as there are now—it’s just that we didn’t know about them. In a world of 24-hour media, when children and young people are under intense pressure from role models who you might not necessarily want for your own children and young people, the possibilities for just being a kid are limited. I think that we need, as a nation, to understand that children are noisy, messy and gangly, and they are just as likely to fall over as they are to stand upright⁴ and just as likely to need to explore and take risks as they ever were. As a nation, we have become scared of letting them do that and of letting them develop their own resilience. We need to come back to the notion of children being children.

Q29 Chairman: What are your three things that are endangering childhood?

Maggie Atkinson: I think the celebrity culture has an awful lot to answer for. We are sold the notion—we are sold it as adults as well, but adults are less impressionable—that you can have millions in your back pocket and that if you are pretty good at kicking a football up a pitch you will earn millions and millions in a year and that it will all come to you. I think that celebrity culture is a huge threat. Children and young people tell me that they are really concerned about how easy it still is if you are 14 but look 19 to get hold of legal but intoxicating substances, including drink and cigarettes. How easy it is to get hold of things that will do you harm is a serious threat. If there is a third one, it is the pressure that we as a society seem determined to continue to put our children under in terms of how hot-housed many of them are at school. Those are my three big ones.

Q30 Chairman: Would you add pornography to the availability of harmful materials?

Maggie Atkinson: I think I would bring that in under the whole business of the 24-hour media and celebrity availability and the fact that it is all too easy to stray on to an internet site. I have a deeply evangelical Christian friend who typed “angels” into Google and pulled up all sorts of things that she would rather not have looked at, simply because of

the headline word. Her children were in the room at the time. It is scary how easy those things are to get hold of. You have to make a much more conscious decision to get anywhere near that than you do to walk down the street and go into your local off-licence and buy drink, if you are 14-plus.

Q31 Chairman: How do you avoid Rupert Murdoch’s pornography empire? Through Sky, he makes and distributes an enormous amount of pornography, which is available to children. You know that. That’s easier than walking into an off-licence and pretending to be older than you are, isn’t it?

Maggie Atkinson: It very much depends on how well you are parented, to be honest. Whether you have easy and open access depends on what guards there are on the system in your home. Those of us who are part of the generation that is still only learning to text do not understand quite how much access to 24-hour, online material our children and young people have.

Q32 Chairman: Would you campaign about that sort of thing?

Maggie Atkinson: I am not sure that the Children’s Commissioner is a campaigning role. It is an influencing role and a drawing-to-attention role, but to me the word “campaigning” smacks of active politics. This is not a political appointment—rather, this is not a political post. It is undoubtedly part of the machinery of government, but it is not a political post.

Q33 Paul Holmes: Picking up from exactly that point, you said earlier that you do not see why you cannot be a strong voice for children in this role. However, when the post was first being set up, this Committee, as the Education and Skills Committee, looked at it and expressed strong reservations. We thought it might be toothless because it was not an ombudsman on the European lines and it did not have the powers of the Welsh or Northern Irish Children’s Commissioners. We were very concerned that it would be a bit pointless. Al Aynsley-Green said at a conference this July that he had done his best, despite his powers being the weakest of any commissioner in Europe. He said: “My resources are small, my offices are tiny. I simply haven’t been able to do everything people expected me to.” What is the point of the job?

Maggie Atkinson: I cannot speak for Sir Al. I haven’t spoken to him all that recently, so I don’t know in what mood he prepares to leave. There are lots of strong advocacy organisations in this country, alongside which the Children’s Commissioner has to align herself if the children and young people who are talking to her say strongly and loudly enough, “Maggie, this is a big issue for us.” So, to align oneself with very prominent organisations such as Kidscape, the Kids Company, the NSPCC, Action for Children, the Children’s Society or any of those organisations—ChildLine, for example—the commissioner needs to ensure that she is doing it for reasons that have been raised by children and young

⁴ *Note by witness:* This description is of course partial. Children and young people are also a positive force for good in their families and communities, and this description is not meant to decry that.

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people in the participation and involvement exercises in which they have been engaged with the commissioner. This is not an individual case-work organisation. It is not meant to be. It is not a tub-thumping or stick-wielding organisation. It is a post for influencing, persuading, evidence-presenting and expressing the voice of the child and young person. No, it does not have exactly the same powers as some of those others, but it has an enormous potential truly to influence how people think about childhood and children.

Q34 Paul Holmes: If you are restricted by the definition of your job—I mean all the commissioners are there to safeguard and promote the rights and welfare of children in a proactive way; you are there simply to promote an awareness of the views and interests of children—why cannot all those other organisations do that? I think it was the Northern Ireland Commissioner who gave the Government a lot of stick about the use of ASBOs, but clearly that is not your role, because you are not a campaigning commissioner. The European Court has said that the Government are breaking the law in compiling the biggest DNA database in the world, with lots of innocent children—millions of people, but lots of children—having their DNA on there. However, you are not a campaigning organisation so that is not your job. The Policing and Crime Bill, which has just finished in the House of Lords, proposes to restrict the rights of children through gang injunctions that are basically like the terrorist control orders—but you are not a campaigning organisation, so what are you going to do?

Maggie Atkinson: I think that I need to clarify what I mean by not being a campaigning organisation, because on all of those issues I can show you documentation that the Children's Commissioner has presented back to policy makers—letters on the DNA database, letters on the determination of age by dental record check, documents presented back to Government about whether children's rights are being safeguarded and promoted in the country. My definition of being a campaigning organisation is that you actually become politicised. That is inappropriate. What the commissioner has to do I said in my application papers, which is that this role is not an inspector, not a political drum-beater. It is the holder of a very sharp light, which is illuminated by the words and the wishes of children and young people and is shone on to policy makers. It will seek out areas on which that light needs to shine. That is really important. It is not campaigning in a political sense, but the office of the Children's Commissioner has the right and the duty to say to those making policy, "You need to be aware that when you look at age discrimination, for example, there are some elements of age discrimination for under-18s that are completely appropriate, and please don't write a piece of law that backs us into a corner and makes that not possible." You have to safeguard the under-18s, and therefore age discrimination is important. Those are all statements that the Children's Commissioner has made. The Children's Commissioner has made all sorts of extremely

important statements, is getting movement on the UKBA's work with unaccompanied asylum seekers—with the work of places like Yarl's Wood—and is gradually making inroads into the work of the Youth Justice Board and young offenders institutions in ways that are not about inspecting and not about political campaigning, but are about saying, "Is this good enough?"

Q35 Paul Holmes: But I am not sure that I understand your definition of campaigning. If it is illegal to have a million and some people on the DNA database, many of whom are children, that is not political—it has been ruled illegal. Surely a Children's Commissioner should be making a lot of public noise about that, but you seem to be saying that you write letters and do things as part of the establishment behind the scenes, but you won't make a big fuss publicly, because that is political somehow.

Maggie Atkinson: I am sorry that I'm not being as definite as I ought to be here in trying to define what I mean. Without fear or favour, and whoever's flag is flying over Whitehall, the Children's Commissioner has to be one of the people in the system who says, "It's not good enough," "It won't do," "Are you aware it isn't legal?" or "It is my duty to point out to you." It is not the Children's Commissioner's role to stomp into Parliament and to try and rewrite the law. That, for me, is where the line is drawn. It is not a law-drafting post, it is a sense and reasoning role. In my experience, the more adversarial you get, the less the other party in your discussion listens to what you have to say. I would rather do what needs to be done in this role through the presentation of very robust evidence, through persuasion and alliance with other organisations, and through weight of argument, than by wielding a big stick.

Q36 Paul Holmes: In a few minutes we are going to move on to start looking at the Badman report and suggestions about the regulation of home education. As the person who is 99% of the way to being the Children's Commissioner for England at the moment, what do you think we should be saying as a Committee regarding the legislative process and the Badman report, and whether it is protecting children's interests or trampling all over the interests of home-educated children?

Maggie Atkinson: I will take you back, if I may, to when I was an adviser in Birmingham city council, where there were quite large numbers of home-educated children—it is getting on for 20 years now since I worked in Birmingham. At that time, as an adviser I had a right and a duty not only to knock on the doors of people who were choosing electively to educate their children at home, but simply to go into their premises and, on the most headline of bases, to look at whether the environment was right, whether there were age-appropriate materials in use, and whether the children seemed okay. They were never interviewed on their own, they were never taken on one side, they were never taken away from their parents and there was never any really intrusive work that I did as an adviser from Birmingham city

council. I felt it was entirely appropriate, and it was within the bounds of reason. In the last two to three years, the regulations are such that I can go no further than the doorstep. I have absolutely no doubt that the vast majority of families who choose electively to educate their children at home are doing so for entirely right reasons, for entirely honourable, fair, just, creative and admirable reasons. But I would give you two words, and they are the first and second names of the child who died—Khyra Ishaq. I do not think that it is taking a sledgehammer to crack a nut simply to be able to go across the doorstep of the home where a child is being electively home educated. Not to interfere, not to insist, not to direct, but simply to check that they are as safe as you need them to be. Khyra Ishaq was electively home educated and withdrawn from the roll of her school in Birmingham, and within 10 weeks she had starved to death. That may be an extreme case, and horrible and dreadful, and it happens very, very, very rarely indeed. None the less, it happened.

Q37 Paul Holmes: Who rewrote the rules to stop you going across the doorstep in the way that you did 20 years ago?

Maggie Atkinson: My understanding is that it was statutory guidance that was rewritten within the Department.

Q38 Annette Brooke: May I slightly revisit this idea of you not being political? Obviously, political with a small “p” to me implies an agent of change—not necessarily party political. Surely you see the Children’s Commissioner’s remit as being an agent for change for children and young people in this country.

Maggie Atkinson: It is not an agent of change for change’s sake. Naturally, there will be issues that the commissioner raises where she considers that children are not being given a fair deal by the nation’s media, for example. Where there is the possibility of a set of articles such as those that appeared in *The Guardian* on Saturday about young men in this country, which were very positive and very balanced, the commissioner has, I think, an absolute duty to push the media to do more of that sort of reporting, because about 72% of reporting on children in the media is negative. Actually, only about 5% of children are involved in anything nefarious or offending. So, redressing that sort of balance—absolutely, as an agent of change. Redressing the sort of issues that we know are beginning to come to the fore in young offenders institutions about restraint, isolation, searching, physical techniques—absolutely. The commissioner has a right and a duty to say something very strong about that, but they should be as informed as possible by the voice of the child and the young person, and it should not simply be because the commissioner has a bee in her bonnet. The campaigning that the commissioner does is strongly limited by the fact that she is speaking not for herself but on behalf of the nation’s children and young people.

Q39 Annette Brooke: To what extent will you be speaking on behalf of children but within the framework of the United Nations convention on the rights of the child?

Maggie Atkinson: The post has to have regard to the UNCRC. You will know from reading the Children’s Plan for 2020 that the writing team tried to work out where the two matched. I don’t think that you can possibly expect to be slavishly connected to it. We celebrate its 20th birthday on 20 November at Lancaster House—rightly so, I think. You could never argue with a great deal of what is in it: that children have the right not to be in an army until they are at least 15 years of age, for example, because they are still children. There are elements of the United Nations convention that are such common sense and ingrained into our civil rights that there is no argument; but to be slavishly connected to it would be as limiting a factor as taking no notice of it at all.

Q40 Annette Brooke: We sign up to something as a nation but we don’t do the things that we think might be unpopular, I think I might surmise from that.

Maggie Atkinson: No, that is not what I am saying.

Q41 Annette Brooke: Very quickly, as I know the Chairman is anxious to move on, obviously the previous Children’s Commissioner submitted a very detailed report to the convention on the rights of the child and then we had feedback on our Government’s performance, which can be said to have improved in some respects. There are still lots of recommendations coming through, including the remit of the Children’s Commissioner from that report. Do you see any part of your role as pushing forward the agenda on the United Nations convention on the rights of the child, so that we can hold our head up with other countries?

Chairman: Could you be brief, Maggie?

Maggie Atkinson: I can try, Chairman. We as a nation have to get to know its content better. Doing things such as making sure that every youth assembly, every member of the Youth Parliament and every schools council understands what is in it, is absolutely one of the roles of the Children’s Commissioner. When I come back to report to you and to the Secretary of State, I ought to be highlighting where activity in the country and the United Nations convention actually align. It is not something that we should take off the table.

Q42 Helen Southworth: You described to us a little earlier some of the things that you would like to do differently, some of the young people you would like to engage with and some of the mechanisms you were hoping to use to do that. I wanted to ask whether you thought that the commissioner should use the time equally on behalf of all children or whether there were specific groups that should have priority. If so, which are they going to be for you?

Maggie Atkinson: The remit within the job description indicates that the vulnerable have a particular place in the work of the Children’s

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Commissioner, so it is written into the job profile that those in care, those in young offenders institutions, those who are in need, those who are disabled, Travellers and Gypsies, immigration and asylum-seeker children have more of the share of the commissioner's time and energy.

Q43 Helen Southworth: I thought it was very laudable that you wanted to speak to all 11 million children. That was great, although I was not sure how you were going to do it.

Maggie Atkinson: Picking up what your colleague was asking me about earlier, the possibility of using youth assemblies, youth councils, school councils networks and the UK Youth Parliament as sounding boards for some of the broader issues that I was talking about earlier has to be the mechanism that the Children's Commissioner uses.

Q44 Helen Southworth: For engaging?

Maggie Atkinson: For engaging with those who are less in need, less vulnerable. Unless the commissioner gets to the generality of the 11 million in the UK, her role is going to be either misunderstood or not known at all by most of our children and young people, and that would be a great shame.

Q45 Helen Southworth: How are you going to protect within that process, bearing it in mind that your predecessor said he didn't have sufficient resources to undertake the work that he was doing? How are you going to protect? What mechanisms are you going to use for each of those children that you've said are written into the job description?

Maggie Atkinson: I've not had a very close look at the accounts, so I don't know what the balance of spending actually is on each group of children and young people, but what I do know is that the organisation now has an ever stronger staff team of about 27 or 28 staff, who are organised in policy teams. Some of the posts in those teams are still being recruited. As a manager or leader in any organisation, however small or large, you have to use a distributed mechanism to enable your policy leads to get on and lead on that area of policy while being accountable to you as the holder of the post. It's about how well you use those resources rather than whether you need a sudden hike in them in straitened financial times.

Q46 Helen Southworth: Can I ask you specifically about a group of children who have a very special place within the state, as it were? As Graham was saying, they are very entrenched within it. They are those children for whom the state is parent. What are

you going to do to ensure that every one of those children knows you exist and can access you—not necessarily a policy lead somewhere, but you—that you're going to hear what they say, that you're going to speak about it and, if you don't get the right kind of response, that you're not going to do what you referred to before, which is to explain sometimes why the system is saying no? You're not going to tell them why the system's right and they're wrong; you're actually going to tell the system what they are saying and make it listen.

Maggie Atkinson: The Children and Young Persons Act 2008, which was given Royal Assent last November, puts in place in every locality the expectation of two things. The first is a children in care council, which is their organisation and speaks about their issues, both to their own locality and to the Children's Rights Director for England within Ofsted. I would want to work alongside that development—the children in care councils in every locality—to enable them to write to me as well as to him. The second thing is that every locality has to write, with them, a children in care pledge, which is about what the system is promising to them. They have to be its co-authors. What I would want is to have sight of all 150 of them and to be enabled to talk either with representative groups from the children in care councils, whether it's one from each or two from each, or an annual event, so that I'm actually talking directly with them. That's something that Al's been pretty good at. It is not necessarily countrywide, but those are the things that you need to do as Children's Commissioner.

Q47 Helen Southworth: So when are you going to do it, then? In which month of the next 12 months is it going to happen?

Maggie Atkinson: I think it has to be an early priority. If appointed, I don't take up the post until 1 March, as you know, but I think within the first three months, there has to be a check on how far children in care councils and care pledges have got and what's being done about them. I'd want a discussion with the Children's Rights Director at Ofsted, without fettering either his position or mine, because they've got an awful lot of that data, but it should be possible to find at least a touchstone as to where we're at by, I would think, the autumn of 2010.

Chairman: Maggie Atkinson, thank you very much for your time with us this afternoon. We've valued your responses to our questions, and we're going to ask you and everyone in the public gallery to withdraw now. We are having a very short private session before we move on to the home schooling session, which will follow immediately after a five-minute break.

Maggie Atkinson: Thank you, Chairman.

Memorandum submitted by the Department for Children, Schools and Families
CHILDREN'S COMMISSIONER FOR ENGLAND

BACKGROUND

1. The first commissioner, Sir Al Aynsley Green was appointed by the Secretary of State on 1 March 2005, his term of office expires on 28 February 2010.

2. The Children’s Commissioner’s function is established in the Children’s Act 2004 and the role and responsibilities are set out in detail in Annex 1.¹ The Children’s Commissioner is an independent champion of children promoting awareness of their views and interests across all sectors of society, including central government, local government and private industry. The remit is broad and strategic giving flexibility in the matters they wish to consider.

3. In carrying out his/her general functions, the Children’s Commissioner will play an important role in monitoring and stimulating progress towards achieving the five outcomes for children and young people provided for under the Children Act 2004. Children and young people themselves highlighted these as being the most important outcomes to them during the consultation on the Green Paper: Every Child Matters. The outcomes are to:

- Be healthy;
- Stay safe;
- Enjoy and achieve;
- Make a positive contribution;
- Achieve economic wellbeing.

4. The Children’s Commissioner will have regard to the United Nations Convention on the Rights of the Child when determining what constitutes the interests of children and young people. In addition, regard should be given to the five principles of The Children’s Plan: Building Brighter Futures:

- Government does not bring up children—parents do—so government needs to do more to back parents and families;
- All children have the potential to succeed and should go as far as their talents can take them;
- Children and young people need to enjoy their childhood as well as grow up prepared for adult life;
- Services need to be shaped by and responsive to children, young people and families, not designed around professional boundaries; and
- It is always better to prevent failure than tackle a crisis later.

5. The England Commissioner’s remit differs from the other UK Commissioners and particularly the Welsh and Northern Ireland Commissioners as they have a case work function. The England Commissioner’s role reflects the relative size of the population served and does have the power to conduct an inquiry into an individual case but only if it is considered to have wider ramifications for other children and young people.

6. The “11 MILLION” (formerly known as the Office of the Children’s Commissioner) is an Executive NDPB and has an annual budget of £3 million. It’s Corporate Strategy and Annual Report were provided to all candidates interviewed for the post.

THE ROLE OF THE CHILDREN’S COMMISSIONER

7. The Children’s Commissioner will be appointed by the Secretary of State for Children, Schools and Families. The functions and duties are set out in sections 1 to 9 and schedule 1 of the Children’s Act 2004 (Annex 1).¹ It is a matter for the Children’s Commissioner to familiarise themselves with the statutory powers and obligations.

8. The key areas of responsibility, knowledge and experience and competencies required for the role are listed below and were the criteria used in assessing the suitability of candidates for the role.

Key areas of Responsibility

- To gather and promote awareness of the views and interests of children and young people so as to raise the profile of children in society and ultimately improve their wellbeing.
- To encourage people working with children and with responsibility for children, in the public and private sectors, to take account of children and young people’s views and interests. You will also advise government on the views and interests of children.
- To consider or research any matter relating to the interests of children, including the operation of complaints procedures. You will consult children and organisations working with children.
- To publish reports on any matter you have considered or researched while carrying out his/her general functions.
- To take reasonable steps to involve children and young people in all work undertaken and in particular to pay regard to those children who may have no other adequate means of making their views known.

¹ Not printed.

- To ensure children and young people are made aware of your work and of how they can communicate with you. You will have to develop an effective communications strategy to establish a high profile and to effectively communicate in ways suitable to children and young people.
- Where cases of individual children raise issues of public policy of relevance to other children you can initiate and conduct inquiries. You will have legal powers of investigation when undertaking an inquiry.
- You will need to work closely with the Children’s Commissioners in Scotland, Wales and Northern Ireland generally, and specifically on matters of non-devolved issues to promote awareness of the views and interests of children and young people across the UK.
- To work with a wide variety of other bodies to promote the effective delivery of services for children, including local and national government; ombudsmen and regulators, voluntary organisations, businesses and the media.
- To report annually to Parliament via the Secretary of State for Children, Schools and Families outlining the way you have carried out your duties; what your findings were; and matters you intend to consider or research during the next year.
- To ensure the efficient running in operational and financial terms of the 11 MILLION office, keeping proper accounting records and preparing a statement of accounts each financial year.
- To manage a team of staff at 11 MILLION, ensuring provision of an efficient service in the face of a busy and demanding workload.

Knowledge and experience

- A good understanding, through knowledge or experience of the issues and problems facing children and young people and experience of tackling some of these issues.
- A good knowledge of children’s services and of the policy context within which these services operate. Experience of working with children and young people to deliver effective outcomes for them.
- Experience of working with a range of stakeholders in order to deliver a set of common outcomes for children and young people.
- A track record of strong negotiation, persuasion and diplomacy skills and experience of influencing high-level decision-makers in a range of public and private organisations.
- Successful experience and consistent achievement at a senior management level within an environment of comparable scope and complexity.
- A record of demonstrable success in translating policy ambitions into tangible achievements.

KEY COMPETENCIES

- The ability to think strategically about the issues affecting children and young people to identify and adopt innovative approaches to tackle these issues.
- Highly developed networking skills to build strong working relationships with children and young people and with organisations in the child and youth sector.
- Well developed listening skills with the ability to learn from and gain the confidence of children and young people and those working with them.
- Excellent oral and written communication skills to communicate in a professional and credible manner at the right level for various audiences—from young children to ministers and media representatives.
- A strong grasp of the principles of public sector propriety, regularity and accountability.
- Excellent leadership and management skills to ensure that the Children’s Commissioner’s office works effectively and efficiently.

TERMS AND CONDITIONS OF SERVICE

9. This appointment is expected to be confirmed in November 2009 and to be taken up in March 2010. Remuneration will be on a full time basis. However, the Commissioner will be required to work regularly outside normal office hours in the evenings and weekends, in order to attend meetings and be accessible to children and young people. They will also be required to travel regularly throughout the UK and possibly further afield.

10. The Children’s Commissioner is appointed for a period of five years by the Secretary of State and may be renewed for a further period of up to but not exceeding five years.

APPOINTMENT PROCESS

11. The process has been managed by the Children's Rights and Participation Team in the Department for Children, Schools, and Families, and is regulated by the Commissioner for Public Appointments. As with all public appointments the process for appointment of the Children's Commissioner in England is required to follow the Code of Practice of the Commissioner for Public Appointments (OCPA) and an independent OCPA assessor, Georgina Butcher, has overseen the process, including being part of the sift and interview panel. In addition, the post is subject to pre-appointment scrutiny by Parliament.

12. The appointment process has been timed so that an appointment can be made in good time before the current commissioner's term of office expires. It has been supported by executive agencies for advertising and candidate management. The process broadly reflects the way Commissioners in devolved administrations were appointed, the recruitment of the current commissioner and other DCSF NDPB public appointments. The process has included:

- An advertisement for the role placed in national press in June 2009.
- A dedicated microsite of information for applications including information about the process, the Department and the office of the Children's Commissioner, 11MILLION. <http://www.childrens-commissioner.co.uk>
- A search of organisations and individuals that may consider the role by the recruitment agency for potential candidates.
- A sift of candidate cvs and personal statements based on the key competencies for the role to identify a long list. This was conducted by the recruitment agency and OCPA assessor and verified by the panel.
- Preliminary interviews, undertaken by the recruitment agency with long listed candidates to understand further their strengths, development areas and motivation for applying.
- A sift to identify a shortlist of candidates for interview, based upon cv, application and preliminary interview information by the selection panel.
- A thirty minute presentation and interview with six children and young people from the DCSF Children and Youth Board to test the candidates against the specification for the role, observed by OCPA independent assessor and panel member.
- A one hour presentation and interview with the selection panel.

ADVERTISING

13. The advertisement for the post was developed by Barkers the DCSF approved supplier for advertising. It was chosen from three creative designs and approved by the Secretary of State and the independent OCPA assessor. The media plan was developed to include an advertising placement in June for two days in Guardian and Times appointments. The post was also promoted through the Every Child Matters web site, 11MILLION's website, public appointments website and internal DCSF communications, encouraging partners and stakeholders to consider the role. The advertisement was supported by a dedicated microsite of information for candidates.

SEARCH AND CANDIDATE MANAGEMENT

14. Search, candidate management and support to the selection panel has been procured via a mini tender through the Cabinet Office Framework agreement. Rockpools have undertaken the assignment—their services have included : Liaison with our assessment panel including the appointed OCPA assessor, production of candidate information pack to be included on a dedicated micro-site and assessment panel information including the criteria by which candidates will be evaluated, research and identification of candidate sources, conducting an initial paper sift of applications and undertaking one to one sift interviews to create a short list.

THE SELECTION PANEL

15. The selection panel consisted Tom Jeffery, Director General, Children and Families Directorate, DCSF; Sir Paul Ennals, CEO, National Children's Bureau; Helen Edwards, Director General, Ministry of Justice; and Georgina Butcher, Independent Assessor, Office of the Commissioner for Public Appointments (OCPA).

INTERVIEWS

16. Four candidates were interviewed by a panel of six children and young people, who were members of the DCSF Children and Youth Board, on 1 September (observed by Georgina Butcher). They gave a short presentation on the most important issues facing children and young people today and how the Commissioner can help. Candidates were then asked questions by the young people designed to test them against the selection criteria. The children and young people then provided feedback to the recruitment panel (the children and young people were supported through this process by the National Children's Bureau).

17. On 2 September candidates gave a presentation on the priorities for the first two years of their tenure as Commissioner, followed by questions from the panel testing candidates against the selection criteria. The panel subsequently met on 11 September to consider the evidence from the process.

18. The panel considered all the candidates interviewed had significant strengths. Margaret (Maggie) Atkinson, Director of Children's Services, Gateshead was considered the strongest candidate overall. The Secretary of State has identified Maggie as his preferred candidate and has invited the Children, Schools and Families Select Committee to hold a pre-appointment scrutiny hearing for the Government's candidate for the post. Her cv is included.²

² See XX.