Good evening and thank you for the invitation to give this address. I want to lead us into a consideration of what we want for our children and young people, how we balance their entitlements with keeping them safe and healthy, educating them, and making them ready to be adults in their turn. Key to this address will be some issues of childhood in adversity. By that, I mean not only the economic and financial issues facing children and young people in England at the moment, but the issues they face because they are, by dint of being children, vulnerable anyway; and also because as a society we continue to seem uncertain exactly what we want for, or think about them.

I place what I say in two broad contexts. I want to speak about children and young people’s rights, how we define and legislate for them, what the context is. I also want to reflect on what a rights based approach to service delivery might look like, then focus on some key areas of concern. In a session like this, I cannot hope to cover all I might. Adversity means whatever comes to assail or waylay you, to stop you in your tracks, to turn you back. We could be here hours, and talk a good talk about all that. What we do with what we know, rather than just knowing or talking about it, is what makes the difference.

I came into this role in March 2010, after a long career in schools and local authority services. My remit relies on the notion that children and young people need advocacy from somebody who does this work on a statutory footing. Children and young people need that advocacy most when they are least easy to relate to, reachable, least easy to support. I am a national, statutory champion for children and young people’s voices and views, for the promotion and protection of their rights. I lead policy debates about them across all areas of policy and services both locally and nationally, from a position of moral purpose and leadership.

A 2010 review of my role will be followed by legislation to change what the Commissioner is, and does, as part of the forthcoming Children and Families Bill alongside adoption, the child protection system, family law and special educational needs. It is thought it will take until 2014 to pass this legislation. In the meantime my
small but dedicated team and I deliver an ambitious programme of work, details of which are on my website. Do follow us on Twitter and re-tweet what we do.

Where the voice of the child indicates it is needed I call for change in policy and practice on children and young people’s safeguarding, health, education, citizenship, and economic wellbeing. I do this work for all 11.8 million children in England, but must by law have a particular regard for the most vulnerable and marginalised. I have a unique right of entry to any setting where children and young people are cared for except their homes, to seek their views, where possible unfiltered by adults.

My vision and priorities, and therefore the work of my office, take serious account of but are not solely directed by the views of children and young people. Preparation for this evening has for example included an online straw poll of my children and young people’s advisory group. My work starts with what children tell me. If you work with or for them, so should yours, however difficult it is to remember - perhaps even to accept - that they are rights holders on their own behalf. They thrive when they are actively involved in shaping the decisions that affect their lives, supported to achieve their potential, with access to appropriate services which they help shape and evaluate, living in homes and communities where their rights are respected and their responsibilities learned, as they are citizens now.

If a policy is about or a service provided for children and young people, their views should be listened to and acted on. They should be able to say how they know they make a difference to the way services work, including by having the complaints they make taken seriously. They should in a nutshell be enabled to enjoy their rights under the United Nations Convention on the Rights of the Child (UNCRC), which the then-UK government signed in 1991. It is the United Nations’ most-signed Human Rights treaty. Having signed and ratified it, in the UK it is now a fully binding treaty under the Vienna Rules on international conventions, whether or not we ever fully incorporate it into law.

The Convention is not alone in framing how a nation treats its children. There are many international standards against which we are judged. We are bound by the European Convention on Human Rights, which lives in our Human Rights Act. Tenets in
both of these apply to the dignity and age-appropriateness of what we do for them.

We are signatories of the EU’s October 2010 Convention on Child Friendly Justice. This covers how children and young people should be treated and have their voices heard in both family and criminal proceedings, whether as witnesses, victims, perpetrators or a mixture of these.

We have signed and ratified the UN Convention against torture, and its Optional Protocol on the prevention of cruel inhuman and degrading treatment when somebody is deprived of their liberty.

We are also party to the UN’s Convention on the ending of violence against women, and to the EU’s Lanzarote treaty on ending the sexual abuse and exploitation of children and young people.

As you can see, there are many benchmarks against which we might reflect on how well we do.

But for all we have ratified both the UN Convention on the Rights of the Child, should abide by this wider range of international standards and instruments and more, I am not convinced we know what they all mean for policymaking, or how we engage in a discourse about childhood as a society, particularly when we are talking about our adolescents.

We understand reasonably well what we mean when we envisage or describe a child, but we seem less convinced about, and many of us certainly less aware of the deeper meanings of, the word Rights in connection with the child. I would observe that unless we happen to work with children and young people, the nation certainly continues to be uncomfortable with what it might mean to promote and protect their rights.

Too easily, we become involved in stereotypical debates firstly about whether children even have rights, and if so whether they have to earn them, and secondly whether their having them somehow negates adults’ rights, or leaves children proclaiming their rights as an excuse for their bad behaviour.
We have some tricky questions to answer, too, about the under-18 population who in English law are children when we decide they are, and adults when we deem it convenient. Ages for sexual consent, driving, drinking, property owning, leaving home without consent, leaving care, being incarcerated in this not that type of prison, marrying, joining the army, are not consistent, for example. The implications of all those milestone moments are hugely significant in a human lifetime, but we live with contradictions and do not always do right by our children as a result.

Children should be understood and valued by adult society, just as they should be brought up to value and understand what it requires of them as citizens. And in order to achieve this, it is for the adults – the people with the power - to move towards those without it, but with a degree of expertise in what being a child in 2012 is actually like. Improving inter-generational understanding lies at the heart of their concerns. It comes rather high up my own list too.

Anybody who works with children and young people, or whose work affects their lives, should actively seek opportunities to fulfil the UN Convention’s Articles. Some are about basic rights we all believe in: to a name; to be safe; to hold a belief and not be discriminated against; to be loved and nurtured. The UN Committee on the Rights of the Child holds us to account for how we are doing. Every five years or so it challenges us to do more where we are found wanting. The UK government is scheduled for the next examination any time from 2014 onwards. Are we ready?

Let me give you an important headline. Rights, including the rights of the child, are not waiting to be earned. They are a given. The UN is clear: when we signed the Convention, we made our children rights-holders, as well as remaining vulnerable beings who need the protection and guidance of adults.

To reassure you, children and young people are clear their holding these rights is not about putting children in charge, or subjugating others’ rights. I have met them from age six upwards who recognise if they have rights, so does everybody else. They see they are mutually responsible for assuring all other children and adults also enjoy their rights. They explain that if we just grab our rights, irrespective of the rights of people around us, it is likely we won’t enjoy them.
We should take the Convention and its UN General Commentaries off the shelf, using its detailed commentaries as well as its headline Articles, alongside other frameworks such as those mentioned earlier. Together they should inform how we treat our children and young people. A word of advice: change the sometimes emotive word Rights for Entitlements and you are perhaps closer to the meaning and the tone of the Convention. Here are some Articles n a bit more detail.

Article 2 says the rights belong to every child regardless, and they don’t have to do anything to hold them.

Article 3 says everything we do must have the child’s best interests at heart. If that means adapting so we see through the eyes of the child, so be it. Given they are all as different as we are, the demands of this Article on both policy and practice should not be underestimated.

Article 4 says children and young people must rely on adults to protect and ensure their rights. Children and young people, especially the most vulnerable among them, are likeliest to be voiceless in a society that for all sorts of reasons takes an adult view of how life, law and policy should be.

Article 6 says every child has the right to develop, having the maximum chances to do well in life. All of them, including those who are hardest to reach, hardest to understand, hardest to accommodate, even those seemingly in possession of or holding firmly down, a working self-destruct button.

Article 12 says children and young people have the right to have their voices heard in all the decisions adults make about their lives. All children, and all decisions, not only where services are child or young person specific. What their neighbourhood is like, what adults are talking about when they discuss important issues about the family, their community or the wider world. Properly guided and mentored, their views can and do add positively to what adults decide on these issues and far more.

Last year we estimate around 50,000 children and young people, and 1,200 or more organisations from small businesses to public bodies took part in the Children’s Commissioner’s Takeover Day. Does what it says on the tin: Children and young people brought
into places where decisions are made, to work alongside the adults making them. Last year's was around Remembrance Day. The Royal British Legion had around 90 young people working with them, including helping design the learning zone at the National Memorial Arboretum in Staffordshire alongside Grant Howells’ Architects, whose ideas, the Legions tells me, they turned upside down and greatly improved. The two children shadowing me came with me to Silence in the Square in Trafalgar Square and met veterans and fellow rememberers, as I did. Businesses, Councils, MPs including Ministers, Fire and Rescue and Police Services, and many more took part. I trust this room is full of people who are already planning for this year’s day, on Friday 23rd November, the same day as the UK Youth Parliament takes to the floor of the House of Commons for its annual debates. If you haven’t done it, please do so this year. As a single day it is only a taster, but it always makes a difference to those who open their doors and let children into decision making spaces.

Article 12 means what it says: all children and young people, with a voice in all the decisions made that affect their lives, even if they can’t have what they want and there are difficult conversations to be had in explaining why. We are weakest at this with those who have the harshest messages to give us, the hardest to listen to who offer little for our comfort: those with disabilities, health including mental health problems, those in youth justice, immigration and safeguarding settings, those in poverty, those isolated by the circumstances of their birth or where they live. Remember, some children and young people will experience far more than one of these circumstances.

Article 13 backs Article 12. Children and young people are entitled to freedom of expression within the law. This is central to the Human Rights Act of course. The Convention relates to it, and to other legislation driving the UK’s sometimes robust and sometimes more fragile social cohesion and community. But freedom of expression granted to our children is not something all of us are comfortable with. Read the General Comments to the Convention and you will see this right is unambiguous, though with a recognition that children and young people need to grow up in a society that teaches them how their entitlements must not eclipse those of others.
In 2009-10, young people working with my counterpart in Northern Ireland undertook a media survey. Under 11s were universally portrayed as angels, those aged 12 plus almost as universally painted as demons in press across the province. In the summer holiday between leaving primary and starting secondary school they clearly undergo a cocoon experience and emerge as monsters. London Government undertook a survey not long ago, one question being, what percentage of adolescents do you estimate are engaged in violent crime? The city’s adults said 30%.

That's around 540,000 teenagers. Perhaps we need to reassess things. The actual percentage? Under one. Stereotyping and negative portrayals come high up the list of issues youngsters raise with me. It’s our responsibility to address them. When did we buy, and how are we sustaining, the myth that all our adolescents are ne'er do wells? How many of you know a teenager or two? Are they villains? I guess not. Is it everybody else’s rather than yours then? It must be!

We live in crucial, some of us might believe over-busy, policymaking times. I want to focus on how children, who live in this time with us and will outlive us in their adulthood, are faring in times of adversity, and yes by that I mean starting from the austerity era we are now in and look likely to inhabit for some years to come. But I want to look at more than that.

All children aged 0 to 18, whoever they are, are vulnerable simply because they are children. They are not in charge or in power, either at home or anywhere else. Some of them may think they are at home, humans after all being born to learn by making mistakes and pushing boundaries. Those boundaries are for the adults to set, for their safety as much as for any other reason. They do not write the laws that affect every aspect of their lives. This is not their playing field to level. It is ours to level for them.

We seem to have some difficulty in having a calm debate about children, and especially those aged 11 upwards. The reasons appear complex. We have some parts of the media that continue, against the plain evidence, to tell the majority of the population whom we could label “frightened but fine” as medics label us “the worried well,” that we have reared an entire generation all of whose members are up to no good. Prejudice breeds suspicion, leaving an abiding fear that any group of young people, clustered under a street light because that’s where they can read their digital
screens and they have their hoods up given it’s November so their ears are cold, are planning the crime of the century. Or that, as one 17 year old told me, “the fact I’m with a group of my friends on your street obviously means we are an organised crime syndicate. Actually it just means I’m having a night off from being a young carer, and I just happen to have a lot of friends.”

What about the austerity climate in which we are living? The evidence for especially the 16 to 24 year old population is stark. Analysis of and commentary on what children and young people face at the moment is legion, from the Ipsos Mori polling organisation, through government’s own analyses in a range of reports, to the charity sector, and across the media. Keep across it, because it matters and the evidence being gathered is stark already and potentially will grow worse. What we do about it, however, matters at least as much as that we know what we are looking at. That duty presses on us all.

In January, I published a Children’s Rights Impact Assessment on the then Welfare Reform Bill. Our analysis highlighted grave concerns and evidenced predictions for the future potential impact of the Bill on children’s rights. In particular, we focused on identifiable groups of children whose rights may, or are likely to, be breached by the implementation coming down the track. Our assessment was put to Government to point out the need to ensure compliance with children’s rights obligations.

In assessing the impact of the Bill we pointed out that children themselves cannot, for example, claim their own benefits, take advantage of the incentive to take up work, move to cheaper accommodation, or comply with the many conditions in claimants’ commitments to the system. Children are both particularly vulnerable to the effects of poverty or reductions in family benefit. They are powerless to affect, but potentially worst affected by, the changes concerned. Certainly they are likely to be unable to influence their families’ changing circumstances. The failure of their parents or carers to comply with conditions on benefits, or to take up the incentives offered, does not alter the Government’s obligations, including the requirement in the UN Convention that States provide financial support to ensure an adequate and dignified standard of living for all children.
All four UK Children’s Commissioners are sufficiently concerned about what is to come that we are pressing government to work with us on these grave matters, which could so adversely shape young lives.

The Welfare Reforms with which the country is now coming to terms should also be seen in the context of other reforms, including those to legal aid in legislation that went through Parliament at almost the same time. Advice on welfare benefits and access to legal representation before tribunals in benefits cases is excluded from the scope of civil legal aid by this legislation, apart from in ‘exceptional cases’. There is a real risk that this will result in non-payment or underpayment of benefits in meritorious cases. I therefore strongly supported hoped for amendments to the Legal Aid, Sentencing and Punishment of Offenders Bill to restore such cases to scope both for children, and for adults with dependent children.

When my team and I considered the impact of Welfare Reforms on children’s rights we also emphasised the levels of poverty and vulnerability already all too common among children whose families are in receipt of welfare benefits, many of them living in homes where both adults are actually working, but for low pay. Benefit levels have, for some years, placed families in receipt of them consistently below the poverty line, which is often defined as 60% of a nation’s median income. This, described to me as “relentless and grinding” by a young person, has a serious impact on the rights of children.

Unicef recently published Innocenti Report Card 10, on finding different ways to measure poverty across the developed Western nations. It makes sobering reading, not least because early on it looks at a list of characteristics of deprivation or relative comfort. It is a list of things you might ask yourself about what comfort looks like to a child. Here are some pointers.

Do you have two pairs of shoes? When Winter comes will you have a warm coat? If a friend comes over after school, can your family afford to feed them? If they wanted to stay over, could you comfortably sleep them under your roof? Do you have three nutritious meals a day, where at least one contains some protein? Do you have toys indoors, and some outdoors? Are there books appropriate to your age in your home? Can your family afford to
let you celebrate a birthday, go on a trip away from home with school or friends, take in an occasional trip to the cinema? And yes I do know all of this is only partly about income, and some may be about choices at home. But it is, and it will remain, about income among all those other things.

Lest we forget, analysts writing in the media only this week reminded us that if we think some of the families drowning rather than waving just now are struggling, we have only just begun. 80% or more of the planned cuts in support services they rely on are yet to come. More than 60% of disabled children are about to lose benefits. And so on. This is not, surely, Dickens’ or Hogarth’s London. But our Children’s Rights Impact Assessment was by no means emptily prophesying doom when it predicted some families will simply struggle to keep a roof over heads and food on plates in times to come, unless changes head off the worst effects.

Look then at health outcomes as another set of benchmarks. Poverty and ill health have been linked for many years by many researchers. They have been linked both statistically, and by practitioners observing and working with poor families. From the starkest analyses made by Public Health professionals, for example, we know the gaps in life expectancy between the most and least affluent wards in a city like this one are likely to be anywhere between 12 and 17 years.

In the poorest and therefore the most complex of England’s communities, urban rural and coastal alike, incidences of life limiting physical conditions and levels of disability, obesity and poor general health are higher than they are elsewhere. So are rates of reported instances of domestic violence, drug and alcohol dependency, cardio vascular and pulmonary diseases, diabetes both type 1 and type 2, smoking related ill health, premature and low birth weight babies, infant mortality, both child and adult levels of depression and other mental health conditions. Low levels of property ownership, educational qualifications at or above GCSE, professional ranked employment, bank account holding and use, dental health, likelihood of a regular holiday however simple or modest. All of these grinding and relentless downwards pressures apply, in some communities at far greater density than in others.

What we do to build resilience among our children, how the community believes and then acts on the belief that they are not
somebody else’s but ours, lies at the heart of whether they thrive, or fail. If we are truly, all of us, in this together, we must live, and make policy, and practice, as if we believe that claim.

Let me focus down now on one more indicator of extreme adversity that affects some of our children. Sadly, for them and for us, some young people become closely involved in the youth justice system. We must continue to engage in even difficult discussions about them and that system, against the benchmark of the UNCRC. As Children’s Commissioner for England, with those in the other UK jurisdictions, Eire and Europe, I stand for a children’s rights based approach, measured against the UNCRC. This is an area where the UN criticises our national approach to how we label, try, punish, rehabilitate, change and treat youngsters who offend. Numbers in contact with the system, certainly numbers who are incarcerated for their proven crimes, have started to fall. They still have further to go. It is appropriate at this point in the government’s term of office to hold this discussion. The government’s repeatedly stated wish to move towards a more community-based, rehabilitative model of working towards those who offend stopping doing so is welcome. It must be about young people who offend as well as adults who do so.

Articles 37 and 40 of the UN convention are crucial in this debate. They say children (that’s all those who are under 18, the UN makes clear) have the right to be tried in a way they can fully understand. Their treatment in the justice system must be age appropriate. Incarceration, including on remand, should be a last resort. The Convention’s Articles require us to look for the social, economic and familial reasons why young offenders do offend. My Deputy leads for us on youth justice and has visited many settings where those who offend are held. She has been in one such setting all day today. As she says to me whenever she has done some work in this area, she has yet to meet a child from an affluent, steady, stable family background in one of these settings. Yet to meet a young person who is serving time and has no dark story to tell about life before this happened, before they did whatever they have done. Young people involved with criminal justice services whether out in society or held inside, are overwhelmingly the children of the poor. Not my statistics but the Youth Justice Board’s. They come from the groups in their schools who did not achieve, or even learn much, or were excluded and never went back. They come from the groups in our
population at whom medics look and recognise speech and language disorders, learning disabilities, neurological, drink or drug related pathologies or inherited difficulties.

Young offenders tell us very clearly that they recognise what they have done and that they are serving their time because they did wrong. But let’s just remind each other that the youngest securely incarcerated English child is, physically but rarely intellectually, socially or morally, ten years old. Do you know any ten year olds? Let’s leave that discussion for another day, but let’s have it!

The Convention is clear: every society has a duty to divert children on the edge of involvement in the system, and deal with them pre-arrest, rather than arresting them except as a last resort. If they have infringed the law, the UN challenges us to seek the reasons, as well as seeking to punish where punishment is required. But as well as punishing, surely we must rehabilitate as our prime concern. The convention requires that children go to prison as a last resort. When they are within the system, at all stages they are to be shielded from treatment that you or I would consider degrading, or inhuman. They also have the right to have their dignity and privacy upheld.

Last night, just under 2,000 children in England and Wales slept in secure accommodation, behind locked doors, some of them behind bars in prisons as you or I would know them. Some of them were aged under 14. Some went to sleep last night relatively close to, others many miles from their families. Some will have committed truly heinous crimes. They will be incarcerated for their own and others’ safety and security, placed exactly where they need to be. In many such settings, they receive close adult supervision and role modeling, therapy as well as containment, education as well as treatment. For many, incarceration will help them reform their lives, learn routine, literacy, numeracy, self respect. You will know that reoffending among young offenders is lower than among adults. But we cant be getting it all right if seven out of ten who have been incarcerated reoffend within a year of release, now can we?

Some of these young people will not have committed anything like a serious offence, and will be contained because they are on remand, not having been judged and sentenced. Many will end up where they are because of an escalation of petty offences over a
period of time. In the worst cases those behind bars last night had been locked up for 12 hours before they went to sleep. In our secure settings they can be physically restrained, including through the infliction of pain. They can be strip-searched, which is exactly what it sounds like, though thanks to our interventions and our report on mental health and youth justice published a year ago, no longer routinely, but only when there are strong grounds for suspicion about contraband. They can be placed in strip cells, which are also exactly what they sound like.

Look at those in the system now. Remember that to be incarcerated in England and Wales they may be as young as 10, though the youngest are in secured homes rather than prisons, but the doors are still locked and movement from place to place is via locked sections of corridor and doors. Most of the children who end up in secure settings are already known to education support services, and to social care professionals, including the 1 in 4 in the YO population who have been in care. If they have a parent who has been convicted they are 66% more likely to offend themselves. Above the average within their cohort have special educational needs, including poor literacy, and sometimes undiagnosed speech and language problems. They very often start at a cognitive disadvantage in English legal settings, especially the courts, where specialist language, including dress and body language, is the norm. More than their cohort’s profile, they have diagnosable mental health conditions. More have an early, often an embedded and developing dependency on alcohol, drugs or both. More than the general population have varying degrees of a combination of these serious difficulties. Many experience court processes they struggle to understand. Most are troubled as well as troublesome, as the staff who work with them are very open to telling us.

We are bound by the UNCRC and international standards on youth justice, couched as UN General Assembly rules, drawn up in Beijing in 1985, in Riyadh in 1990, and in Havana also in 1990. They give us the basis for going forward, are already in existence, and express best practice. All are based on the notion that all children and young people are vulnerable, that those who offend usually do so out of heightened vulnerability, and all who offend deserve to have their rights addressed by the adults in the justice system. They are further reinforced by the EU’s publication, on 14 October last year, of its new - and very good - guidance on child-
friendly justice, which was written after extensive consultation with close to 4,000 European children and young people across the continent.

To close with a reminder of the realities out there, lest you run away with the idea that I believe we are all deliberately and callously doing all our children dreadful wrongs, or that all of them live lives as hard and as worrying as the worst. On the contrary, and in spite of the massive challenges facing us as a nation at the moment, by far the majority of England’s 11.8 million children are in fact safe tonight. Most are well parented, much beloved, well taught, healthy, balanced young citizens. Most of them live in warm, secure, loving homes, and they are being made more than ready to face life’s challenges, resilient and with what one child told me could be called bounce-back-ability. Most children, when they venture beyond home, are supported and worked with by trusted adults who understand children, and who work with them because they like them. Some of our children are indeed far needier, challenged or challenging, troubled or in trouble. Among that group, all too often, are the children of the poor.

And then, a tiny minority of England’s children are massively damaged. They are likely to do themselves or others serious harm unless we turn them round. They are a small number, but I would contend that getting things wrong for them means getting them wrong, full stop. It is in that light that I will go on challenging all of us to decide what to do about dealing with their problems, not just punishing them for what we as a society have failed to do to safeguard their wellbeing. If the Big Society, whatever you think of the concept, is to bear fruit, as a nation we must fulfil the promises we made when we signed the UNCRC in 1991. If we do, if we use it to remind us to listen to and believe in our children and young people, we will enable them to be all we would wish them to be.