

Article 39
(Registered charity, number 1166092)
Financial statements
for the year ended 31 March 2019

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Article 39
Trustees' annual report
for the year ended 31 March 2019

Full name Article 39

Organisation type Charitable incorporated organisation

Registered charity number 1166092

Principal address

1 Cranmer Street, Nottingham, NG3 4GH

Trustees

Alexander Gask, Chair

Suraya Skelland

Nicola Wyld, Treasurer

Ella Dhillon

Catherine Brown, Secretary

Phillip Noyes OBE

Susannah Walker, from 15/03/19

Independent examiner

John O'Brien, employee of Community Accounting Plus, Units 1 & 2, North West, 41 Talbot Street, Nottingham, NG1 5GL

Governance and management

The charity is operated under the rules of its constitution adopted 15/02/16 and registered as a CIO on 16/03/16.

Apart from the first charity trustees, every trustee must be appointed for a term of three years by a resolution passed at a properly convened meeting of the charity trustees. In selecting individuals for appointment as charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.

Objectives and activities

(1) The relief of need, and promotion of the protection, of children living in institutional settings in England through in particular but not exclusively:

(a) The provision of information to children living in institutional settings about law, policy and professional standards in respect of their care and treatment, and the ways in which they can raise concerns and challenge mistreatment;

(b) Undertaking and disseminating research on safeguarding and child protection matters in institutional settings;

(c) Monitoring child protection concerns and practices in children's institutional settings;

(d) Providing technical advice to government and others on matters related to the safety and well-being of children living in institutional settings;

(e) Commenting on proposed legislation concerned with the needs of children living in institutional settings.

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- (2) The advancement of the human rights of children living in institutional settings in England by all or any of the following means:
- (a) Raising awareness of the means by which children may seek redress for human rights abuses;
 - (b) Monitoring human rights abuses in children's institutional settings;
 - (c) Undertaking and disseminating research into human rights in children's institutional settings;
 - (d) Providing technical advice to government and others on the human rights of children living in institutional settings;
 - (e) Commenting on proposed legislation concerned with the human rights of children living in institutional settings;
 - (f) Obtaining redress for the victims of human rights abuses in children's institutional settings;
 - (g) Raising awareness of human rights issues;
 - (h) Promoting public support for human rights;
 - (i) Promoting respect for human rights among individuals and corporations.

Public benefit statement

The Trustees confirm that they have complied with the duty in section 17 of the Charities Act 2011 to have regard to the Charity Commission's general guidance on public benefit, 'Charities and Public Benefit'.

Summary of the main activities undertaken for the public benefit

This was Article 39's third year of funded activity. We are very grateful to all of our funders and to the many organisations and individuals who worked with us throughout the year.

Our report concerns the period April 2018 to 31 March 2019, though it includes significant developments just past this date.

Summary of the main achievements during the period

We informed children of their rights

We launched our pioneering rights4children website for children and young people in June 2018, and consistently receive great online feedback, a selection of which is below:

"Good advice for people that are in care."

"Clear, concise, not patronising."

"It really inspired me to help others who are going through similar things."

"Easy to follow."

"Sensitively and positively phrased – well done."

"Very easy to get around; very clear."

"Real life stories are relate-able for children in prison and this story is also full of hope which is fantastic."

The site was used more than 19,000 times in the first year.

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We successfully defended children's social care rights

In July 2018, the Department for Education published a 'myth busting' guide on statutory responsibilities in respect of children in care, care leavers, children remanded in custody and children who have run away or gone missing from care. The document contained many legal inaccuracies and risked weakening or removing protections for vulnerable children and young people. We co-ordinated a letter to the Children's Minister from 50 organisations and social work experts and then, when the Minister refused to withdraw the document, applied to launch judicial review proceedings in January 2019. Two months later, the Department for Education agreed to withdraw the document, pay our legal costs and promised that consultation with children and young people, Article 39 and other concerned organisations would occur ahead of any future changes to policy. In a meeting with Article 39's Director and the Chief Executive of Working Chance following the withdrawal of the document, the then Children's Minister, Nadhim Zahawi MP, gave further assurance that such a publication would not occur again.

We challenged the use of pain-inducing restraint on children

After learning that GEOAmev escort custody officers would be trained and authorised to use pain-inducing restraint on children during their journeys to and from secure children's homes, we ran a successful online funding appeal in 2017 to enable us to legally challenge the policy. Pain-inducing restraint is prohibited within secure children's homes.

Once it had reconsidered its escort restraint policy in response to our threatened legal action, the Ministry of Justice informed us in May 2018 that it would undertake a wider review into pain-inducing restraint across the children's secure estate. Details of the review were not forthcoming, so we pressed on with the legal challenge. Shortly after we lodged our application at the High Court, in October 2018, the Government announced the review would be carried out by Charlie Taylor, the Chair of the Youth Justice Board (though in an independent capacity).

The High Court stayed our application in January 2019, pending Charlie Taylor's review and the Joint Committee on Human Rights' (JCHR) inquiry. In April 2019, the JCHR recommended that pain-inducing techniques be banned. We were delighted that several of the submissions to the Committee, including those from the Equality and Human Rights Commission and the Royal College of Psychiatrists, stressed that pain-inducing restraint is a breach of children's human rights. Article 39's Director was interviewed on Radio 4's Today programme on the morning the Committee's report was launched.

Two months before the JCHR published its findings, our efforts to protect children from these violent techniques were greatly boosted by the Independent Inquiry into Child Sexual Abuse's investigation into custodial institutions. The Inquiry described pain-inducing restraint as "a form of child abuse" and recommended its legal prohibition. Article 39's Director had provided two witness statements to the investigation and gave evidence at an oral hearing in July 2018.

We ended the financial year awaiting the outcome of the Taylor review, and the Government's response to it.

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We successfully lobbied for government guidance to protect children in prison

Our research on institutional abuse allegations was referred to in the Independent Inquiry into Child Sexual Abuse's investigation into custodial institutions, published at the end of February 2019. The Inquiry's recommendation that "the Ministry of Justice and the Department for Education share policy responsibility for managing and safeguarding children in custodial institutions" reflects our call for separate statutory guidance on responding to institutional abuse allegations. In July 2019, we welcomed the Government's decision to produce 'Keeping children safe in custody' statutory guidance for the first time.

We achieved legal protection for children living in mental health hospitals

The Mental Health Units (Use of Force) Act 2018 received Royal Assent in November 2018. Article 39 worked on the legislation with YoungMinds and others throughout its Parliamentary passage.

The Act is known as 'Seni's Law', after Olaseni Lewis who died, aged 23, following restraint by police officers called to Bethlem Royal Hospital in London in 2010. Once it comes into force, it will require mental health units to: publish a policy on the use of force and provide information to patients about their rights; arrange comprehensive staff training on the use of force; and maintain detailed records. The Government must publish an annual report on the use of force by staff in mental health units, and produce guidance for health professionals and health organisations on implementing the Act.

We lobbied for a number of safeguards and were delighted that three of these were included in the legislation:

- The Act requires that staff training includes the impact of restraint on a patient's development. We would have preferred the wording 'child's development' but the meaning is the same – training must specifically include the effects of use of force on children's development.
- Staff must record the outcome of each use of force – this means that any injuries and/or psychological harm suffered by children (and adults) will be documented. This will improve transparency and accountability and should lead to the withdrawal of techniques which cause harm to children.
- Records about the use of force must indicate whether parents (or others in a patient's care plan) were notified after each use of force. This is a vital safeguard for vulnerable children who may not tell their parents (or the local authority if they are in care) if they have been restrained.

We published an online summary of the Act for children and young people, and their parents and advocates, and ended the year preparing to contribute to the statutory guidance which will be issued in 2020. Our Director was pleased to be invited to join the expert advisory group for the Care Quality Commission's thematic review of restraint, seclusion and segregation.

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We defended the right to make abuse negligence claims

We made a successful joint Supreme Court intervention with The Care Leavers' Association in a case concerning child abuse negligence claims (Poole Borough Council v GN & Anor). Other interveners were The Aire Centre and Coram Children's Legal Centre. We were delighted that the Supreme Court restored the right of children and young people to sue for negligence where a local authority has failed to protect them from harm. Our joint intervention focused on the impact of abuse on children and young people. We started work on the case in May 2018 and the Supreme Court handed down its judgment in June 2019.

We raised the profile of independent advocacy, and worked to strengthen the impact of advocates for children and young people

Our Advocates4U campaign (named by two members of Sheffield Children in Care Council), backed by 50+ organisations, secured a Parliamentary roundtable on children and young people's advocacy services in June 2018, hosted by former Children's Minister Tim Loughton MP and chaired by the Children's Commissioner for England.

Article 39's Director worked closely with the Children's Commissioner and other members of an Advocacy Working Group established after the roundtable. A report with 10 recommendations for strengthening children and young people's advocacy services was published by the Commissioner in June 2019.

At the end of 2018, we launched our Children and Young People's Advocates Network to strengthen the enforcement of children's rights. Our first two regional events took place in Manchester and London in February and March 2019 respectively. We are very pleased to have attracted advocates to the Network from a wide range of settings. We ended the year making plans to work with advocates on reviewing and revising the national advocacy standards (first published 2002), and preparing to apply for funds to develop legal training for advocates.

We launched a collaborative campaign to end child imprisonment

In November 2018, we launched England's first collaborative campaign to press for the closure of child prisons – with the Centre for Crime and Justice Studies, Howard League for Penal Reform, INQUEST, Just for Kids Law and the National Association for Youth Justice. The Standing Committee for Youth Justice later joined the campaign steering group. Our co-hosts at the House of Lords, Lord David Ramsbotham and Baroness Vivien Stern, have both lent their support to the campaign.

Five months after we launched the campaign, the steering group published 'Principles and minimum expectations for children deprived of their liberty' which sets out a framework for meeting children's needs and upholding their rights.

We co-ordinated a letter from 36 signatories to government ministers with responsibility for child protection and child prisons urging them not to locate their first secure school on the site of Medway secure training centre. The serious case review into the secure training centre, published January 2019, exposed considerable failings by the Local Safeguarding Children Board, the local authority and many other

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agencies, as well as G4S which ran the prison between 1998 and 2016. Article 39 ensured wide dissemination of the serious case review's findings. Very regrettably, the government's response indicated this location was chosen for England's first experimental secure school because the prison service owns the land and buildings.

We sought greater rights protection for children from various bodies

During the year, we made detailed submissions to a number of bodies, including:

- UN Committee on the Rights of the Child's consultation on juvenile justice;
- Joint Committee on Human Rights' inquiry into the solitary confinement and restraint of children in custody;
- Joint Committee on Human Rights' inquiry into the detention of children and young people with learning disabilities and/or autism;
- Department for Education consultation on out-of-school settings' voluntary safeguarding code of practice;
- Her Majesty's Inspectorate of Prisons' consultation on its inspection framework for child prisons.

In December 2018, we wrote to Edward Timpson CBE, the Chair of the Child Safeguarding Practice Review Panel in respect of the brutal attack on a child by two prison officers in Wetherby young offender institution. We asked that the Panel arrange a review of the case and wider safeguarding in the prison. Disappointingly, the Panel declined to establish a review but did state it was "looking carefully at such cases to establish any patterns and trends such that we should commission a national review". This is an important baseline for us referring additional incidents and concerns to the Panel in the future.

While drafting content for the 'Restraint and use of force' topic on our rights4children site, we discovered that the 'reasonable chastisement' common law defence for assaulting a child (originating in a case from 1860) remains available to staff working in NHS and private hospitals and mental health units. This could significantly undermine new legal protections around the use of force – see information on Seni's Law above. The defence has been removed from all other children's residential settings. With the Royal College of Paediatrics and Child Health and the Royal College of Nursing, we wrote to the Children's Minister and then met with Department for Education officials to argue for the legal loophole to be closed. As the year drew to a close, we were awaiting the response of the Department of Health and Social Care.

We promoted respect for human rights

Throughout the year, we provided children's rights comments to a variety of media sources, including the BBC (radio and television), Big Issue, Children and Young People Now, Community Care, The Guardian and Independent. Our Director wrote articles for The Guardian newspaper (the law and desperately ill children; ending child imprisonment), Community Care (restraint in schools) and Professional Social Work (about the flaws in the Government's 'myth busting' guide).

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We were pleased to be invited to the following events:

- Astrea Project and Central England Law Centre event on The Mother and Child (MAC) Advocacy Project;
- Coram Voice: Always Heard first national conference;
- Global Initiative to End All Corporal Punishment of Children discussion about UK progress on equal protection from assault for children;
- National Association of Independent Reviewing Officers' national conference;
- National Advocacy Conference, organised by Kate Mercer Training;
- Social Work Action Network's annual conference;
- Napo annual conference;
- Standing Committee for Youth Justice (discussion about the serious case review into Medway secure training centre);
- Workshop on disagreements in the care of critically ill children, organised by Nuffield Council on Bioethics.

We provided policy advice and information as well as legal signposting throughout the year to the Independent Children's Homes Association. This was in response to member queries around promoting and protecting the rights of individual children, as well as our (often joint) work seeking to influence local and national policies.

Children's rights champion John Kemmis

We were deeply saddened by the death of our friend and colleague John Kemmis, in December 2018. John spearheaded our campaign to strengthen children and young people's independent advocacy services, and dedicated half a century to children's social work and children's rights. He left an incredibly strong legacy, and we shall always be grateful for his work with Article 39. We extend our heartfelt thanks to John's family for encouraging donations to our charity, which we will use to make a promotional video about the power of advocacy services for children and young people.

The charity's policy on reserves

Article 39's target level of reserves is 3 months of running costs.

Signed on behalf of the charity's trustees:

Signed _____ Date _____
Alexander Gask, Trustee

**Independent examiner's report to the trustees of
Article 39
for the year ended 31 March 2019**

I report to the trustees on my examination of the accounts of Article 39 (the charity) for the year ended 31 March 2019.

Responsibilities and basis of report

As the trustees of the charity you are responsible for the preparation of the accounts in accordance with the requirements of the Charities Act 2011 ('the Act').

I report in respect of my examination of the charity's accounts carried out under section 145 of the 2011 Act and in carrying out my examination I have followed all the applicable Directions given by the Charity Commission under section 145(5)(b) of the Act.

Independent examiner's statement

I have completed my examination. I confirm that no matters have come to my attention in connection with the examination giving me cause to believe that in any material respect:

1. accounting records were not kept in respect of the charity as required by section 130 of the Act; or
2. the accounts do not accord with those records.

I have no concerns and have come across no other matters in connection with the examination to which attention should be drawn in this report in order to enable a proper understanding of the accounts to be reached.

Signed _____ Date _____

John O'Brien MSc, FCCA, FCIE
Employee of Community Accounting Plus

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Receipts & payments account
for the year ended 31 March 2019

2018			2019	
Total		Unrestricted	Restricted	Total
Funds		Funds	Funds	Funds
£	Note	£	£	£
Receipts				
59104	Grants & donations	2 48348	40000	88348
<u>59104</u>	Total receipts	<u>48348</u>	<u>40000</u>	<u>88348</u>
Payments				
1793	Associates fees	1706	-	1706
1380	Children's engagement	207	-	207
206	Hospitality & publicity	10	362	372
300	Independent examination	300	-	300
271	Insurance	441	-	441
5088	IT & online surveys	5581	411	5992
736	Payroll service & BACS fees	1147	-	1147
1077	Printing & stationery	701	73	774
58	Professional fees	-	120	120
-	Recruitment	-	850	850
30340	Salaries, NI & pensions	33828	28922	62750
2053	Staff travel inc. Associates	2037	1562	3599
-	Strategic litigation	2196	-	2196
174	Telephone & postage	174	89	263
-	Training & subscriptions	120	90	210
177	Trustees' expenses	101	-	101
<u>43653</u>	Total payments	<u>48549</u>	<u>32479</u>	<u>81028</u>
15451	Net receipts/(payments)	(201)	7521	7320
10514	Cash funds at start of this period	18136	7829	25965
<u>25965</u>	Cash funds at end of this period	<u>17935</u>	<u>15350</u>	<u>33285</u>

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Statement of assets and liabilities
at 31 March 2019

<i>2018</i>		<i>2019</i>
£		£
	Cash assets	
25965	Bank accounts	33285
<u>25965</u>		<u>33285</u>
	Other monetary assets	
-	Debtors - Strategic litigation fees to be reimbursed	2196
249	Prepayments	458
<u>249</u>		<u>2654</u>
	Liabilities	
(3052)	Creditors	(3366)
<u>(3052)</u>		<u>(3366)</u>

These financial statements are accepted on behalf of the charity by:

Signed _____ Dated _____
 Nicola Wyld, Trustee

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Notes to the accounts
for the year ended 31 March 2019

1. Receipts & payments accounts

Receipts and payments accounts contain a summary of money received and money spent during the period and a list of assets and liabilities at the end of the period. Usually, cash received and cash spent will include transactions through bank accounts and cash in hand.

2. Grants & donations

	Unrestricted £	Restricted £	Total £
The Independent Children's Homes Association	10000	-	10000
The Bromley Trust	10000	-	10000
Esmee Fairbairn Foundation	25000	-	25000
The Hadley Trust	-	16000	16000
National Association for Youth Justice	-	500	500
The Centre for Outcomes of Care	500	-	500
Anonymous	-	23500	23500
Sundry grants & donations	2848	-	2848
	<u>48348</u>	<u>40000</u>	<u>88348</u>

3. Funds analysis

	Opening balance £	Receipts (Payments)		Closing balance £
		£	£	
Restricted funds				
Ending Child Imprisonment	-	500	(299)	201
Assistant Director	-	23500	(16187)	7313
Children's Advocacy Project	277	16000	(15993)	284
Litigation fund	7552	-	-	7552
	<u>7829</u>	<u>40000</u>	<u>(32479)</u>	<u>15350</u>
Unrestricted funds				
General fund	18136	48348	(48549)	17935
	<u>18136</u>	<u>48348</u>	<u>(48549)</u>	<u>17935</u>

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Notes to the accounts continued

4. Prepayments

	£
Insurance	398
Training & subscriptions	60
	<u>458</u>

5. Creditors

	£
Independent examination	480
Salaries, NI & pensions	2779
Payroll service & BACS fees	107
	<u>3366</u>

6. Trustees' remuneration

During this period, a total of £101 was reimbursed to Ella Dhillon for travel expenses incurred.

7. Glossary of terms

Creditors: These are amounts owed by the charity, but not paid during the accounting period.

Debtors: These are amounts owed to the charity, but not received in the accounting period.

Prepayments: These are services that the charity has paid for in advance, but not used during the accounting period.

Restricted funds: These are funds given to the charity, subject to specific restrictions set by the donor, but still within the general objects of the charity.