



## **In Care, Out of Trouble**

How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system

**Report of an independent review chaired by Lord Laming**

# Acknowledgements

This independent review would not have been possible without initial funding by the J Paul Getty Junior Charitable Trust and generous support from the Olswang Foundation, J Leon Charitable Trust, Hadley Trust, Persula Foundation, Warburg Pincus, AB Charitable Trust and kind individual donors.

We would like to thank all those who took the time to provide written and oral evidence to the review. We are particularly grateful to those who shared their personal experiences of care and the criminal justice system and those of close family members.

We are grateful to the review panel members for their knowledge and commitment. In particular we would like to thank the children and young people's consultation group who have made a profound contribution. For their assistance in supporting young people's involvement in the review, we thank Darren Coyne of the Care Leavers' Association, Emma Corbett of the Who Cares? Trust, Sally Bartolo and the Greater London Authority peer outreach team, Greg Nicholas of Cardiff Council, Liz Ibeziako, Barnardo's, the Big House Theatre Company, the Black Training and Enterprise Group and HMPYOI Feltham.

Further thanks are due to Grace Wyld and Pamela Storey for volunteering their time and expertise to assist with drafting this report, to Anne-Marie Day, to Anna Mears and James Vivian, and to all those who reviewed draft material. We are grateful to the Esmée Fairbairn Foundation, the Barrow Cadbury Trust, Google UK and the Welsh government for hosting meetings.

We thank the Youth Justice Board for England and Wales, HM Inspectorate of Prisons and the Department for Education for assisting with the analysis of data on looked after children in the criminal justice system, and we also thank the Youth Justice Board for facilitating the review's evidence sessions at the 2015 Youth Justice Convention. Thanks go to the National Police Chiefs Council for helping us to gather evidence from police forces through written submissions and through their 2016 conference on the police response to children and young people. We thank Penny Hall, Huw Gwyn Jones and Sarah Cooper of the Welsh government for their expertise.

Finally, we thank all those who hosted visits and held meetings with review panel members and supported the review in other ways, all of whom have helped to make this report a positive force for change.

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Cover image: Locked in Rainbows, Atkinson Secure Unit (Secure Children's Home), Pierce Brunt Highly Commended Award for Drawing (Koestler Trust)

ISBN: 978-1-908504-82-1

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# Foreword

*Since July 2013 I have been to 16 schools and I have been in 15 different placements all around the country ... All of my offending has been whilst in care.*

Young review panel member, aged 15 years, 25 June 2015<sup>1</sup>

*These children are in our care; we, the state, are their parents – and what are we setting them up for...the dole, the streets, an early grave? I tell you: this shames our country and we will put it right.*

Rt. Hon. David Cameron MP, Prime Minister, October 2015<sup>2</sup>

This review was established to examine the reasons for, and how best to tackle, the over representation of children in care, or with experience of care, in the criminal justice system in England and Wales.

Aiming to reduce the disproportionate number of young people who are, or have been, in public care progressing into custody is laudable. The over representation of looked after children in the youth justice system has to be challenged and changed. But it soon becomes distressingly clear that starting at the point of evidence of criminal behaviour is for many young people simply too late in the day. Remedial work and rehabilitation are essential but prevention is so much more rewarding and fruitful for the young person and wider society. It is against that background that it would be good to pause and reflect again on the importance of childhood in the social and emotional development of every young person.

Good parenting entails a life time commitment. It creates the solid foundation on which is built the evolving unique personality that, hopefully, will in due course become the fulfilled adult. The essential ingredients are security, stability, unselfish love and an unyielding commitment to give the child the best start and hope for the future. It is in this context that young children develop self confidence, trust, personal and social values and optimism. Loss, neglect or trauma at this early stage in life often result in profound and enduring consequences.

Great emphasis should be placed on early life experiences. Guidance and support through pregnancy and during the early months of parenthood should be available to all who need it. There are clear long term benefits in identifying problems at an early stage rather than delaying until a crisis. It is in all of our interests that as many children as possible are enabled to grow up to become successful, law abiding and fulfilled citizens well able to be good role models for the next generation. We all have a part to play in this, but especially the wider family. At times of difficulty steps should be taken to involve other family members and encourage their different contributions and support. Handled in the right way a crisis might be short-lived and stability restored. After all, this is a well trodden path in many families without the assistance of the state. This can be hugely satisfying work for frontline staff. Working in this way in some local authorities has already resulted in fewer children coming into care.

Investing in childhood is more than a nice thing to do. It has a real value that goes beyond the child as it facilitates the future wellbeing of society. Failure to help the child and, where possible, to support the family at this stage is both costly to the child and very expensive to the state. In every way the price is high for everyone involved. In financial terms it costs over £200,000 each year to keep a young person in a secure children's home and the yearly cost of a place in a young offender institution is about £60,000.

Meeting many young people in custodial institutions demonstrates all too clearly the gaps in their social development and in their basic education. It is impossible not to be moved by their experiences and the serious constraints on their life chances. For some, their anger, frustrations, inability to express themselves except through challenging behaviour and possibly violence all point to failure, for whatever reason, in their earlier years. Yet with the right help at the right time, the capacity of many children to change and their resilience in difficult circumstances is admirable.

The staff in these establishments need to be equipped to demonstrate a mixture of sound professional skills and impressive personal qualities. They deserve good training, proper supervision and support. We should honour what they do on behalf of us all not least because few of us, including me, would choose to take on such challenging and at times distressing work. Remedial work can be tough, demanding and at times dispiriting. But this review has heard how good practice can achieve inspiring results.

What is abundantly clear is that no one service operating alone can hope to meet the needs of these young people or their families. Each one of the key public services has a distinct and clear responsibility in law to fulfil the duties placed upon them by the United Kingdom Parliament and the Welsh Assembly. One of those duties is to work in partnership with each of the other services. Over the years there have been far too many well publicised examples of services failing to work across organisational boundaries both in the exchange of information and in day by day practice in the protection and support of vulnerable children. We have seen and heard of excellent joint working and co-located teams in places such as Leeds and Surrey to divert looked after children from unnecessary criminalisation. Good practice is achieving splendid results in other areas too. Now is the time to make it standard practice everywhere.

Surely the time has come when it should be made clear that the performance of the most senior officers, and their tenure, should be judged against the quality and effectiveness of the work for children, not least in the success of the good collaboration between different services. This is not to imply that senior managers can know each child in public care. But they must be expected to have put in place robust and effective quality standards and fail-safe mechanisms so that a possible service failure and drift are identified and corrected speedily. For example in Leeds, senior staff in each of the key services get a weekly report on data such as the numbers of children not in school, admitted to care, or in custodial settings. Ofsted has recently assessed three London boroughs as outstanding.

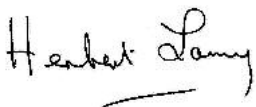
I am indebted to my expert panel for their work in shaping and contributing to this review. In particular I should like to commend the work of young members of the panel whose insights and preparedness to draw on their own experiences of being in care and their involvement with the criminal justice system have informed the review from the start. It is against that background that we make the recommendations for change which are set out in this report.

These are the outcomes we wish to see:

- The work must be driven by strong and determined leadership at national and local levels, taking a strategic multi-agency approach to protecting children in care against criminalisation. This needs to be underpinned by better data collection so as to improve services for children and families, especially those at risk.
- We want to see consistent, early support for children and families and, where necessary, good parenting by the state.
- It is important to investigate and address the needs of minority groups of looked after children who are at risk of involvement in the criminal justice system.
- There must be more effective joint working between families, local authorities, youth offending services, child and adolescent mental health services, the police and other criminal justice agencies leading to substantially improved opportunities for preventing the criminalisation of looked after children and diverting them from the criminal justice system wherever possible. Where this cannot be done, looked after children deserve proper support and fair treatment throughout the criminal justice process.
- Lastly, young people leaving care are vulnerable and must have more consistent support.

The aims of this report will command widespread support. We have outlined the steps to be taken, and by whom, to effect the necessary improvements.

We should be impatient of poor practice that puts at risk the safety of children and undermines their life chances. The organisational model is secondary to the achieved results. Good results are being demonstrated in authorities that have a shared vision, clear ambitions and a rigorous commitment to enabling vulnerable children to achieve much. There is no reason why proven good practice cannot now be standard practice everywhere.

A handwritten signature in black ink that reads "Herbert Laming". The signature is written in a cursive style with a horizontal line underneath the name.

The Rt. Hon. the Lord Laming CBE DL



**In Care, Out of Trouble:** How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system

## Recommendations

### Recommendation 1 – Provide national leadership

We recommend the formation of a cabinet sub-committee (England), or equivalent body (Wales), to provide national leadership in protecting looked after children and young people from unnecessary criminalisation by ensuring there is good joint working, proper regulation and policy development across UK government departments, and across the Welsh government, to act as an example to local government services, and by:<sup>3</sup>

- 1.1 Commissioning and disseminating a cross-departmental concordat on protecting looked after children from criminalisation, to reinforce the statutory obligations of all relevant agencies and highlight the need for joint action:<sup>4</sup>
  - (a) Each concordat should require local authorities, police and other relevant agencies to set and deliver locally agreed outcomes to reduce the criminalisation of, and offending by, children and young people in care;
  - (b) Both concordats should be developed within one year. Within the same period, any corresponding amendments required to statutory guidance should be identified and put in place. There should be a further two year period for implementation followed by regular review. Each concordat should be guided by the principles set out in Appendix One.
- 1.2 Ensuring that common standards are set for the collection, analysis and publication of data about children and young people in the criminal justice system who are or have been in care so that we can all be better informed about their needs;
- 1.3 Ensuring inspection measures and assessments of performance are set that address criminalisation, in particular:
  - (a) Inspections of local authorities, children’s homes and schools by the relevant inspectorates should specifically measure performance based on the level of involvement of their looked after children with the criminal justice system and the consistency of local authority support for looked after children who become involved with the criminal justice system, and should routinely report on this.<sup>5</sup> In the case of local authorities this should include, for example, asking in advance of inspections how many times the police have been called out in the previous 12 months in relation to the behaviour in a care home of any child looked after by that local authority. In the case of inspections of individual care homes, advance information should be requested concerning the number of police call outs in the previous 12 months in relation to the behaviour of any child in that care home.

(b) Inspections of youth justice services by the relevant inspectorates covering health, children’s social care, education and training should also specifically measure performance based on outcomes for looked after children.

1.4 Ensuring the convergence of information systems running between children’s social care and youth justice services both in England and Wales.

1.5 Ensuring that the newly proposed authoritative body for children’s social care in England, based on the ‘What works’ model<sup>6</sup>, works alongside the Youth Justice Board for England and Wales to disseminate information about leading practice in protecting children in care, and those on the edge of care, against criminalisation; and that in Wales consideration is given to the development of similar arrangements.

## **Recommendation 2 – Achieve consistent police practice**

We recommend that the Home Office should:

2.1 Advocate the adoption and implementation of regional police protocols throughout England and Wales to reduce the prosecution of children and young people in care, modelled on the South East England and Gwent protocols;

2.2 As proposed by the All-Party Parliamentary Group for Children<sup>7</sup>, review the Home Office Counting Rules and develop a new outcome, allowing police forces to record low-level, crime-related behaviour by children and young people in a way that ensures referral to a welfare agency to address the behaviour, does not create a criminal record and cannot be disclosed by an enhanced Disclosure and Barring Service check;

2.3 In consultation with the Department for Education and the Welsh government, commission and publish a crime recording protocol for incidents in children’s care homes, similar to the protocol in operation for schools; and

2.4 Require police and crime commissioners to set clear expectations for police forces to work in collaboration with local authorities and other agencies to protect children in care from unnecessary criminalisation. Police and crime commissioners should take account of the needs and circumstances of looked after children when commissioning services to reduce crime in their local area.

## **Recommendation 3 – Provide early support for children and families at risk**

We recommend that each concordat on protecting looked after children from criminalisation (see recommendation 1) should explicitly recognise the important role that early support for children and families plays in protecting children and young people in care, and those on the edge of care, against criminalisation. This should include commitments by central and local government to work together to ensure that early support services aimed at protecting children and young people from maltreatment, neglect and inadequate parenting are sustained and developed.

## Recommendation 4 – Strengthen local authority leadership

We recommend that the following measures be introduced to strengthen local authority leadership to protect looked after children from unnecessary criminalisation. All these measures could be implemented, in England, by amendments to the Children Act 1989 guidance and regulations (that are next to be reviewed in April 2017), and in Wales by amendments to the codes of practice issued on the exercise of social services functions and partnership arrangements in relation to the Social Services and Well-being (Wales) Act 2014:

4.1 Statutory guidance must assert the important role of the local authority in tackling the stigma which children in care can encounter, as identified by research and in this review.<sup>8</sup> The guidance must make clear that local authorities should raise awareness amongst local partner agencies and others about the needs, circumstances and characteristics of looked after children and challenge negative stereotypes. This is critical to enabling children to achieve the ‘wide range of opportunities to develop their talents and skills in order to have an enjoyable childhood and successful adult life’ for example, as referred to in the Children Act 1989 guidance and regulations, and protecting them from needless involvement in the criminal justice system.

4.2 Statutory guidance must -

- (a) Require local authorities to hold regular senior-level, strategic meetings with their multi-agency partners with the common aim of improving outcomes for looked after children, including protecting them from criminalisation. This must provide a commitment to share information, promote good practice and make joint decisions about matters affecting looked after children locally.
- (b) Describe a range of activities that local authorities and their partners must routinely carry out in fulfilment of their responsibilities for parenting, including a requirement that:
  - (i) Directors of children’s or social services must receive regular, accurate information about the progress of all children from entry into care and specifically the involvement in the criminal justice system of looked after children for whom they are responsible. Directors of children’s or social services should summarise this information as part of their regular reporting to lead members for children’s services.
  - (ii) Directors of children’s or social services must ensure that their department has a close working relationship, including fast and effective channels of communication, with local criminal justice agencies (youth justice services, the police, the Crown Prosecution Service, the courts and secure establishments) with the common aim of ensuring that looked after children are protected from unnecessary criminalisation wherever possible and, where this is not possible, that they are well supported and fairly treated within the criminal justice system. This must include ensuring that their department informs local criminal justice agencies promptly when they are working with a looked after child, provides information about the child’s circumstances and any vulnerabilities, and that the

department provides the necessary support to that child to help achieve diversion from the criminal justice system where possible and, where this is not possible, to support the child throughout the criminal justice process.

#### 4.3 Local authorities must be required to:

- (a) Recruit, train and support young adults who have experience of the care system to act as peer mentors and positive role models to children and young people in care. This reflects a clear consensus among young people who told this review that this kind of support would have given them valuable emotional and practical support and helped them to make better choices.
- (b) Carry out a rigorous review when any looked after child experiences three or more placement moves within 12 months and where any placement move arises following a police call-out in relation to that child's behaviour, in order to learn why this happened and how it can be avoided in future, and that the results of such reviews are regularly reported to the lead members for children's or social services.

4.4 All bodies in Wales whom we consulted expressed concern about the high number of out of authority placements there by English authorities. The evidence suggests that many of these placements lack effective planning and information sharing, and that these factors can contribute to the criminalisation of looked after children. We therefore recommend that English statutory guidance must be amended to incorporate the requirements specified in the code of practice (no. 6) issued in relation to the Social Services and Well-being (Wales) Act 2014.

### **Recommendation 5 – Improve joint working between children's social care and social services, and criminal justice agencies**

We recommend that the following measures must be implemented in England to improve joint working for the protection of children in care from needless criminalisation. This can be done through amendments to Section 8 of Volume 2 of the Children Act 1989 guidance and regulations when it is next reviewed in April 2017:

- 5.1 Local authorities must hold a regular, formal panel meeting with the police force and other partners to review the circumstances of each looked after child at the first indication that they may have begun to offend, so that early, purposeful diversion from the criminal justice system can be put in place. This should include appropriate sharing of information and joint decision making wherever possible.
- 5.2 Local authorities must put in place resources, including training and support through practitioner forums, to ensure that carers in all placements are able to support children's social development and to respond to challenging behaviour without involving the police formally. This has been done successfully in some areas through the use of restorative practice.<sup>9</sup>



- 5.3 All children's homes, whether independent or publicly run, must be required to develop and implement a protocol with their local police force, in consultation with children's social care services, to minimise formal police involvement in managing children's behaviour. The protocol's operation must be monitored by the director of children's or social services and the lead member for children's services.
- 5.4 Local authorities must always notify criminal justice agencies promptly (youth justice services, the police, the Crown Prosecution Service, the courts, and custodial establishments) when a looked after child comes into contact with the criminal justice system.
- 5.5 Where a looked after child is arrested, the local authority must ensure within a reasonable time that the child has support at the police station from an appropriate adult who knows them, who understands their role and is able to carry it out, and who has no conflict of interest in relation to the proceedings against the child.
- 5.6 Where a looked after child appears in court, it should be a requirement for the child's social worker to attend court with the child (rather than simply good practice, as currently stated at paragraph 8.41 of the guidance). Where the social worker does not know the child well, another adult must also attend who does know the child, such as a carer or family member, provided that this is safe and in the child's best interests, and in accordance with the child's wishes and feelings.
- 5.7 There must be short time limits within which information about a looked after child must be communicated to other agencies at each stage of the criminal justice process, including when a looked after child is placed in a custodial setting.
- 5.8 Resettlement planning must be completed 21 days before a looked after child's release from custody (increasing the current time limit of 10 working days) when the period of time in custody allows this. The governing governor, director or head of the secure establishment must notify the director of children's or social services when resettlement planning has not been completed within this time period.
- 5.9 Every effort must be made by the local authority to facilitate family support for the child at all stages of the criminal justice process where this is safe and in the child's best interests, and in accordance with the child's wishes and feelings.

We recommend that similar measures be adopted in Wales to complement the existing codes of practice issued in respect of Parts 6, 9 and 11 of the Social Services and Well-being (Wales) Act 2014.

## **Recommendation 6 – Recognise the important role of good parenting by the state**

We recommend that each concordat on protecting looked after children from criminalisation (recommendation 1) should explicitly recognise the important role that good parenting by the state plays in protecting children and young people in care against criminalisation. This must include reinforcement of the need for local authorities to take the steps set out below:

- 6.1 Ensure that each child in care is treated with respect and understanding, is fully informed and engaged in matters that affect their lives, and receives consistent emotional and practical support from their primary carer and at least one other trusted adult. This may be a social worker, Independent Visitor or other professional or volunteer.
- 6.2 Ensure that each child in care is supported in developing and sustaining positive relationships with their family members where this is safe, in the child's best interests, and in accordance with the child's wishes and feelings.
- 6.3 Facilitate and support peer mentoring of children and young people in care by young adults who have experience of the care system and can act as positive role models.
- 6.4 Ensure that appropriate responses are made to challenging behaviour without unnecessarily involving the police. The police and youth justice services also have a role to play here.
- 6.5 Ensure that suitable care placements are available locally to meet local need and placement choices are made in consultation with children and young people.
- 6.6 Ensure that a rigorous review takes place where any child experiences three or more placement moves within 12 months, and where any placement move arises following a police call out in relation to that child's behaviour in order to learn why this happened and how it can be avoided in the future and that the results of such reviews are regularly reported to the lead member for children's services.
- 6.7 Ensure that foster carers and residential care staff have sufficient training and support to promote children's social development, to respond to challenging behaviour without inappropriately involving the police, and to improve placement stability. This has been done successfully in some areas through restorative practice.
- 6.8 Ensure that looked after children and young people are effectively supported to thrive in their education and other constructive activities. This must include training for all teachers about the additional needs that looked after children can have, as part of their core teacher training.
- 6.9 In relation to the mental health and emotional wellbeing of looked after children, we recommend that:
  - (a) All children should be assessed by a mental health professional upon entering care;
  - (b) There should be a presumption that looked after children and young people are given first priority for mental health services until they have been fully assessed, after which

point priority should be determined based on clinical need. This should be an essential element of all contracts through which child and adolescent mental health services are commissioned, and monitoring the numbers of referrals and time to first assessment should be part of the contract monitoring process.

## **Recommendation 7 – Respond to the particular needs of looked after children and young people in minority groups**

- 7.1 Data about looked after children’s involvement in the criminal justice system should be regularly published and clearly disaggregated on the basis of ethnicity, faith, gender and disability and, where applicable, the type of custodial establishment in which children are held.
- 7.2 We welcome David Lammy MP’s independent review of the treatment of, and outcomes for black, Asian and minority ethnic people in the criminal justice system, commissioned by the Prime Minister and due to report in Spring 2017.<sup>10</sup> With assistance from the Department for Education, the Welsh government and the Youth Justice Board for England and Wales, the Lammy review should:
- (a) Specifically consider the experience of looked after children and young people who are black or from other minority ethnic backgrounds in the criminal justice system, including why they are over-represented in custody compared to other looked after children; and
  - (b) Analyse the available data, disaggregated by ethnicity and region, and make recommendations as to gaps that need to be filled in order to identify unequal outcomes and their underlying reasons, to achieve equal treatment for all children and young people, and to measure progress.
- 7.3 In establishing and monitoring locally agreed outcomes to protect children and young people in care from criminalisation (see recommendation 1), lead local authority members for children’s and social services, corporate parenting boards and Chief Constables should include a specific focus on:
- (a) Meeting the needs of children and young people in care who are black or from another minority ethnic group
  - (b) Meeting any faith-related needs of children and young people in care
  - (c) Ensuring that the treatment of children and young people in care is gender-sensitive. This must include, at a minimum, ensuring that girls have access to support and supervision by female officers and staff.<sup>11</sup>
  - (d) Meeting any additional needs of children and young people in care due to developmental disabilities and disorders, learning disabilities, learning difficulties and

speech, language and communication needs. This should include training to ensure that frontline staff and police officers in all agencies are able to identify and respond to any possible needs, ensuring prompt and appropriate information sharing about known needs and ensuring children and young people have access to support and any specialist services required to support their social development, education and emotional wellbeing and protect them from criminalisation.

- (e) Meeting the needs of looked after children who are subject to immigration control. This should include, at a minimum:
  - (i) Ensuring that the mental health needs of unaccompanied asylum seeking children are met as a priority, recognising the circumstances of their coming to the United Kingdom;
  - (ii) Supporting foreign national children in care to resolve any outstanding matters concerning their immigration status; and
  - (iii) Ensuring that young people with experience of care who are subject to deportation proceedings due to criminality are legally represented in those proceedings and that full information is provided to the tribunal to ensure that the circumstances of their coming to the UK and their experiences in the care system are taken into account.
- (f) Meeting the needs of looked after children who are potential victims of trafficking. This should include ensuring that they are identified as victims at the earliest possible stage and protected in line with legislation and policy. This must ensure at a minimum that:
  - (i) The police:
    - a. Cover trafficking in the custody record/booking in process
    - b. Cover trafficking in crime reports
    - c. Share information with other forces to avoid new prosecutions of children who are trafficked again;
  - (ii) Children's social care and social services, youth justice services, the police, Crown Prosecution Service, lawyers, magistrates, judges and staff in the secure estate receive training on how to identify potential child victims of trafficking and how to safeguard those children; and
  - (iii) The Home Office, Ministry of Justice and Youth Justice Board for England and Wales work together to produce guidance on how to identify victims of trafficking and how to safeguard possible victims in the secure estate.

## **Recommendation 8 – Fair treatment and proper support for looked after children from criminal justice agencies**

- 8.1 All criminal justice agencies (youth justice services, the police, the Crown Prosecution Service, the courts and secure establishments), working closely with children’s social care and social services, must ensure that they know when they are working with a child in care, understand their vulnerabilities and take a strategic approach to ensuring that looked after children are fairly treated and well supported throughout the criminal justice process.
- 8.2 The police should not interview a child in custody, charge a child with an offence or administer an out of court disposal, without knowing whether that child is looked after and, where the child is looked after, without consulting their parent local authority. Where a looked after child is interviewed in custody, charged or receives an out of court disposal without these steps having been taken, the police should be required to explain the reasons to the court in any later proceedings.
- 8.3 The Crown Prosecution Service should review the operation of its guidance on the prosecution of looked after children in residential care in order to satisfy itself that both the letter and spirit of the guidance is being followed consistently and in all cases and, as part of this process, consider extending the guidance so that it covers all looked after children.
- 8.4 Where it appears that Crown Prosecution Service guidance for the treatment of looked after children has not been followed in bringing a prosecution, magistrates and judges should be able to stand a case down to allow the prosecution and defence to engage in a conference outside the courtroom, in an attempt to resolve the situation without resorting to formal court proceedings.
- 8.5 We take this opportunity to underline the basic principle that custody should only ever be used for children and young people where there is no alternative, whether or not they are looked after. Further:
- (a) Where there is no alternative to custody, looked after children, like other children, should be placed in small, local units which are designed to promote their psychological and emotional wellbeing. We welcome the indication from Charlie Taylor that his review of youth justice, commissioned by the Secretary of State for Justice, will include a fundamental rethink of children’s custody, including the closure of young offender institutions and the establishment of small units with a strong focus on emotional wellbeing and education.
  - (b) Submissions to this review and research by HM Inspectorate of Prisons, Inquest and others demonstrates that looked after children can be particularly vulnerable while in custody and often have a particularly poor experience. A thoroughgoing review of custodial provision is required to ensure that the needs of looked after children are fully addressed within custody, including safeguarding, rehabilitation and planning for resettlement.

## **Recommendation 9 – Strengthen support from children’s social care, social services and youth justice services for looked after children in the criminal justice system**

Each concordat on protecting looked after children from criminalisation (see recommendation 1) should reinforce the responsibility of children’s social care services to work closely with youth justice services in order to:

9.1 Support looked after children to be diverted from the criminal justice system and custody wherever possible, including:

- (a) Ensuring the matter is dealt with without court proceedings unless there is no alternative;
- (b) Ensuring wherever possible that the child is eligible for bail and is able to comply with bail conditions; and
- (c) Ensuring that where a child is convicted of an offence, the court is presented with robust community alternatives to custody, unless custody is the only possible outcome.

9.2 Ensure that where a child is remanded or sentenced to custody, the child is well supported during his or her time in custody and there is effective planning for the child’s resettlement.

## **Recommendation 10 – Improve the rehabilitation of looked after children who have offended and support young people leaving care**

10.1 Where any child is convicted of a minor offence, including a looked after child, consideration should be given to wiping the rehabilitation (or disclosure) period for that offence immediately. Where this is not possible, the rehabilitation period should be shortened and the offence should be expunged from the child’s record at the age of 18.

10.2 Given the research evidence that leaving care early (at 16 or 17 years) is associated with poor outcomes, we recommend that the ‘Staying put’ and ‘When I am ready’ arrangements currently provided to looked after children in foster care should be extended to looked after children leaving residential care and transitional accommodation placements.

10.3 We recommend that support for care leavers who are not in education or training should be extended from 21 to 25 years, matching the support received by care leavers in training or education.

# Introduction

## Our approach

This review did not set out to criticise any agency but rather to help constructively by drawing on the expertise of our witnesses, and to identify and spread examples of good practice. The review team includes social workers, police, magistrates, academics and other experts, as well as children and young people who have been in care and been in trouble with the law. Over 220 written submissions have been received from a wide range of agencies, and individuals with personal or professional experience of care and the criminal justice system. The review panel has also taken oral evidence in meetings, during visits to establishments, at national conferences and in regional forums of practitioners and policy makers. We were pleased that over 90 local authorities across England and Wales responded to Lord Laming's request for information.

We take as our starting point the evidence we have received from all these sources, with a particular emphasis on what we have been told by children and young people in care, and those who have recently left care. The result is neither a piece of academic research nor a policy document. Rather, it is a distillation of the views and experiences of a substantial number of people with past or present experience of growing up in care or working with children and young people in care and in the criminal justice system, and other experts and organisations working in relevant fields. These submissions, many of which echo the findings of earlier research, are the primary source of evidence on which our recommendations are based. In this report we seek to build on earlier studies in calling for the protection of children in care from criminalisation to be given high priority at national level and by all relevant local agencies. Children in care deserve no less.

## The over representation of looked after children in the criminal justice system

*I am often humbled and proud of our young people in care and their achievements.*

Nottingham Youth Offending Service<sup>12</sup>

The overwhelming majority of children and young people in care do not offend.<sup>13</sup> Many young people leave care and go on to live happy and successful lives. The young review panel members, as well as many people who made submissions reflecting on their past experiences of care and the criminal justice system, demonstrate the resilience and capacity of children and young people to go on to achieve much, even if they have become involved with the criminal justice system. However, for the significant minority of children and young people in care who do get in trouble with the law, this has potentially devastating long-term consequences for them, and comes at great cost – both financial and social – for wider society.

Looked after children in England are now six times more likely than children in the general population to be convicted of a crime or receive a caution.<sup>14</sup> Over half of children in secure training centres and 38% of children and young people in youth offending institutions report that they are, or have been, in care,<sup>15</sup> compared with 1% of children in the general population in England and 2% in Wales.<sup>16</sup> Based on these data and statistics from a number of other sources, each of which has its limitations, we estimate that up to half of all children in custody are, or have been, looked after children (see Appendix Three).

Some of the findings of this review reflect concerns raised by the Public Accounts Committee and the National Audit Office in recent reports about the care system and its oversight by government.<sup>17</sup> People working with children are finding it much tougher to implement good practice than it is to agree what good practice is. The work is complex and challenging, and much depends upon strong and consistent leadership by senior managers and political leaders. However good results are being achieved in some places, even amid today's constraints in public finances. This should therefore be possible everywhere, provided the necessary resolve is shared at national and local level.

Close joint work between children's social care (in England) or social services (in Wales) and youth justice services is essential, with each playing an important but distinct role in preventing behaviour by looked after children and young people which could lead them into contact with the criminal justice system, diverting them where possible and, where this is not possible, supporting them and treating them fairly throughout the criminal justice process.

Criminal justice agencies have an equally important role to play in all these areas. Charlie Taylor's review of youth justice includes, as it should, a focus on protecting children in care from criminalisation. The House of Commons Justice Committee found in 2013 that the youth justice system is failing looked after children and care leavers.<sup>18</sup> The UK All-Party Parliamentary Group for Children has since called on the police and Home Office to do more to protect looked after children from needless involvement in the criminal justice system.<sup>19</sup> Working closely with parent local authorities and youth justice services, the police are key to the prevention of criminal behaviour by looked after children, as well as their diversion from formal criminal justice processes.

Police forces in a number of areas are working strategically and achieving good results with local authorities to reduce episodes where children go missing and protect children in care against criminalisation. This has the added benefit of reducing police time spent on these matters over the longer term. However police practice remains inconsistent. The National Police Chiefs Council is offering strong leadership to help promote good practice. Police and crime commissioners could play a leading role here. Clear leadership is also required from the Home Office – including through the implementation of a crime recording protocol for children in care homes, similar to that which currently exists in schools. Also pivotal is the timely provision of support and advocacy by parent local authorities to looked after children and young people at the police station, and ensuring that looked after children and young people are not detained any longer than necessary through a lack of suitable accommodation in the community. This latter problem should now be addressed through the implementation of the concordat on children in custody, which has been developed by the Home Office and Department for Education in order to drive improvements in transfer arrangements for children between police custody and local authority accommodation.<sup>20</sup>

The Crown Prosecution Service has a critical role to play in diverting looked after children and young people from the criminal justice system wherever possible. Its national guidance and 10-point checklist are useful tools but respondents to this review suggest they are not applied consistently. The role of the courts, and the support provided to looked after children and young



people during court appearances, are also key in ensuring looked after children are fairly treated and well supported throughout the criminal justice process. Magistrates have expressed frustration at seeing looked after children come before them in cases which should not have proceeded, based on the CPS guidance, and without adequate support.

Looked after children are particularly vulnerable in custody. In its 2011 thematic report, HM Inspectorate of Prisons examined the experience of looked after children aged 15 to 18 in Young Offender Institutions and concluded that in many YOIs there was a lack of clarity about who had lead responsibility for identifying and meeting the needs of looked after children, and in many cases looked after children were not receiving adequate support from their parent local authority, either in terms of visits from social workers and financial support while in custody, or in planning for their resettlement.<sup>21</sup> The Commons justice committee recommended in 2015 that the commitment to fund social workers placed in YOIs should be extended. We heard evidence from social workers placed in YOIs who told the review that they felt their presence gives young people ‘security and an independent voice’ and ensures that both the secure establishment and the child’s parent local authority are meeting the child’s needs.<sup>22</sup> Charlie Taylor’s rethink of child custody includes a proposal for secure alternative provision schools serving local areas, with some specialist provision for the youngest and most vulnerable children in custody. This rethink must include specific consideration of how best to meet the needs of looked after children, including planning for resettlement.<sup>23</sup>

The Department for Education’s 2015 statutory guidance on the Children Act 1989 clearly sets out the responsibilities of local authorities to looked after children in custody, as do the Welsh government’s 2016 codes of practice.<sup>24</sup> There are areas in which the guidance could be strengthened. There are also real concerns that guidance is not being applied as currently drafted. In its 2015 thematic report on resettlement services for children, HM Inspectorate of Probation found a number of looked after children who did not know until late in their sentence where they were going to be placed following release. This made it impossible to plan for education, training and employment as well as creating anxiety and uncertainty.<sup>25</sup>

### **Achieving change**

The volume, variety and quality of the submissions we have received demonstrate the strength of feeling amongst young people, parents and professionals alike, that we can and must do better in helping children in care to stay out of trouble. This suggests that this is an ambition whose time has come. In times of financial constraint, asking for more to be done by public bodies, or for what is done now to be done better, is not necessarily welcome. However, the reduction in public finances may also be a spur to creating different and more effective ways of working. Devolution of responsibility and budgets and increased localism, as well as working across professional and departmental boundaries and pooling budgets, will play an important role in improved services.

We are encouraged by the UK government’s commitment to the radical reform of children’s social care<sup>26</sup> and we look forward to more detailed information about the development of these plans to transform children’s social care by 2020, including a revised Care Leavers’ Strategy.

The Children's Social Care Innovation Programme<sup>27</sup> in England, launched by the Department for Education in October 2013 and extended in 2016, seeks 'to inspire whole system change for children's social care'<sup>28</sup>. This has been a positive force to support innovation in improving the quality and impact of children's social work and rethinking support for adolescents in or on the edge of care. Many projects funded under the programme are likely to benefit children and young people at risk of offending. The Department for Education's drive to improve social work education and training is also welcome, as the quality of young people's relationships with their social workers, and the decisions made by social workers with them and on their behalf, underpins children's experience of growing up in care. Wales has also seen significant social work reform, including through the Social Services and Well-being (Wales) Act 2014.

Charlie Taylor's review of the youth justice system, commissioned by the Ministry of Justice in 2015 and due to be published later in 2016, has the potential to drive improvements in the protection of children in care against criminalisation, with a specific focus on reducing the criminalisation of children in care homes, as well as wider reforms of the youth justice system.<sup>29</sup> Sir Martin Narey's review of children's residential care, commissioned by the Prime Minister and the Secretary of State for Education in 2015 and published in July 2016, also creates opportunities for reform.<sup>30</sup>

We have been impressed by examples of good practice in places such as Warwickshire and West Mercia,<sup>31</sup> Staffordshire,<sup>32</sup> Leicestershire,<sup>33</sup> Surrey,<sup>34</sup> Leeds,<sup>35</sup> Gwent,<sup>36</sup> Waltham Forest in London<sup>37</sup> and Manchester<sup>38</sup>. These examples show that determined, strategic efforts to reduce the number and proportion of looked after children in trouble with the law can achieve positive results.

Focused central investment remains important to drive improvements. We believe that in order to achieve longer term success in protecting looked after children from being drawn unnecessary into the criminal justice system, sustained investment is required in the following priority areas:

- Early support for children and families
- Recruitment, training and career benefits to achieve a highly skilled and highly valued, confident and stable children's workforce - primarily social workers, foster carers and residential care workers
- Effective commissioning of local placement provision to meet local needs
- Structures to support effective multi-agency working.

The government has a pivotal role to play in providing leadership in all these areas during a period of financial constraint and structural changes. Against this background, we believe that change can now be achieved across England and Wales, to give children in care the protection and support they need to thrive and stay out of trouble.

### **Outcomes sought by this review**

An account of the evidence, and our conclusions and recommendations are organised under six outcomes. These represent a consensus about what is needed in order to protect children in

care from getting into trouble. Specific recommendations for action are given at the end of each section and listed in full on pages v - xiv above. The six outcomes needed are:

- 1: Strong and determined leadership at national and local level driving a strategic, multi-agency approach to protecting children in care against needless criminalisation.
- 2: Early support for children and families at risk, preventing early life trauma wherever possible.
- 3: Good parenting by the state for children in care, giving them the best chance to thrive and protecting them from criminalisation.
- 4: Ensuring the needs and characteristics of looked after children in minority groups are taken into account in protecting them from criminalisation, including:
  - 4.1: Looked after children and young people who are black or from other ethnic minorities
  - 4.2: Looked after children and young people of Muslim faith
  - 4.3: Looked after girls
  - 4.4: Looked after children and young people with developmental disabilities and disorders, learning disabilities, learning difficulties and speech, language and communication needs
  - 4.5: Looked after children and young people who are subject to immigration control
  - 4.6: Looked after children and young people who are victims of trafficking.
- 5: Effective prevention, diversion and rehabilitation - close joint work between parent local authorities, youth justice services, child and adolescent mental health services, the police, the Crown Prosecution Service, the courts and the secure estate ensuring that:
  - Behaviour by looked after children that could lead them into contact with the criminal justice system is prevented
  - Looked after children are diverted from the criminal justice system wherever possible
  - Where this is not possible, looked after children are well supported and fairly treated throughout the criminal justice process with the aim of preventing reoffending.
- 6: Young people leaving care continue to benefit from good parenting and are protected from criminalisation.

## **Review findings**

We find, in summary, that:

- (a) The protection of children in care from criminalisation is still not sufficiently prioritised at national or local level. Statutory guidance gives many of the protections that are needed, but it is not consistently followed and there are areas in which it could be strengthened. The commitment of local agencies to work closely together to protect children in care from

being drawn needlessly into the criminal justice system, while strong in some places, is inconsistent across England and Wales. Strong, sustained leadership at national and local level is needed to achieve results.

- (b) Deficiencies in data mean we do not know the extent of the problem and this undermines progress. Data collection needs to be improved in order to meet children and young people's needs and effectively protect them from criminalisation.
- (c) Data deficiencies are particularly acute for looked after children and young people in minority groups, in respect of whom there is evidence of additional and particular needs which are not being met. A systemic approach is needed to eradicate negative stereotyping and prejudicial treatment of black children and young people in care and the criminal justice system. Too little is known about the experience of girls and Muslim young people in care and the criminal justice system. Children with mental health needs are not receiving timely and effective support. There is too little awareness and support available for those with learning difficulties and disabilities, and speech, language and communication needs.
- (d) Foreign national children in care and victims of trafficking require better protection from criminalisation and its consequences. The particular needs of unaccompanied asylum seeking children for protection from criminalisation are not examined in this report. Given the recent, significant increases in reception of such children in some local authorities, with planned dispersal across England and Wales, this requires further study.
- (e) Effective early help services and good parenting by the state have a central role to play in protecting children in care, and on the edge of care, from being drawn needlessly into the criminal justice system. Parent local authorities must sustain and develop effective services, with a specific focus on protecting children in care from criminalisation, and central government should support them in doing so. This should include ensuring that each looked after child has a positive relationship with his or her primary carer and at least one other trusted adult and promoting the quality and stability of care placements. It is essential for foster carers and residential care staff to be trained and supported to engage with children and young people in a positive, understanding and respectful way, using formal and informal approaches to build relationships and a sense of community, support social development and respond effectively to challenging behaviour, and avoiding formal criminal justice processes wherever possible. Adoptive parents have told the review that ongoing, post-adoption support is key.
- (f) By working closely together in a well organised way, with common goals and clear and regular channels of communication, and raising awareness in all agencies about the needs and characteristics of looked after children, progress can be made to prevent behaviour that could lead to trouble, to divert looked after children from the criminal justice system wherever possible and, where this is not possible, support looked after children through the system and ensure they are fairly treated. All professionals working with looked after children should understand how to engage effectively with them, treat them with respect and understanding and ensure they are fully informed and able to participate in matters affecting them.

- (g) Leaving care is well known to be a time of great vulnerability and risk, and more must be done to protect young people at this critical stage in their lives, with support both emotional and practical. This will play a fundamental role in protecting young people leaving care from criminalisation.

### **Literature review accompanying this report**

There is an extensive body of research both in England and Wales and internationally, concerning the involvement of looked after children in the criminal justice system. Review panel member Dr Jo Staines of the Hadley Centre for Adoption and Foster Care Studies at the University of Bristol has produced a systematic review and narrative synthesis of this literature for the review entitled 'Risk, adverse influence and criminalisation: Understanding the over representation of looked after children in the youth justice system'. Dr Staines' paper accompanies and informs this report.<sup>39</sup>

### **Definitions**

In this report, references to a 'looked after child' or 'child or young person in care' mean children and young people subject to care orders as well as those looked after under section 20 of the Children Act 1989, or under section 76 of the Social Services and Well-being (Wales) Act 2014, children subject to remands to detention or local authority accommodation, and those sentenced by a court to residence in local authority accommodation or a Youth Rehabilitation Order with a fostering requirement.

References in this report to a 'care leaver' mean those young people aged 16 – 21 years old who have been in care for 13 weeks or more between the ages of 14 and 18, and who are entitled to ongoing support and assistance from the local authority under the Children Act 1989 or the Social Services and Well-being (Wales) Act 2014 up to the age of 25 if they are in education, employment or training, or returning to education.

References to 'criminalisation' mean being unnecessarily drawn into formal criminal justice processes in relation to a minor offence or misdemeanour.



## What children and young people said to the review<sup>40</sup>

*...I have been to 16 schools and I have been in 15 different placements all around the country ... All of my offending has been whilst in care.*

Young person in care, aged 15 years

*You can't have a good relationship with your social worker because you are just another case that happens to land on their lap. And this is how young people end up going to jail... Having good friends helped me as they were positive.*

Young woman with experience of care and the criminal justice system

*I think young people in care just need that one person...I've had [my Independent Visitor] since I was 14 and the amount of things she's done for me and the love and the guidance that she's given me is massive. She's like a mum to me.*

Young woman with experience of care and no offending history

Evidence provided by young people has been crucial in helping the review panel to understand what it is like now to grow up in care in England and Wales, and to be involved with the criminal justice system as a looked after child. We take what they have said as our starting point.

The young people's evidence reveals a broad variety of experience, with a number of shared themes. Many have described feelings of frustration, anger and sometimes despair at having every significant aspect of their lives determined by a bureaucratic system, with a lack of consistent, long-term relationships with adults either within the system or independent from it, who could be trusted to care about them unconditionally, to prioritise their interests and represent them, to offer them practical and emotional support, and to listen and respond to what they want.

These feelings were reflected in many written submissions sent to the review by older adults describing their childhoods spent in care, including some who wrote to the review from prison. Conversely, where both younger and older people with experience of care have told the review about positive experiences, they have tended to attribute these to individual adults within the system – often carers or social workers – who supported them over a relatively long period and had a profound, positive impact on their lives.

Amongst the many views and experiences described to the review by children and young people, some common themes emerged as to what they felt had contributed to them getting involved with the criminal justice system, what helped them to get out of trouble and what would have made a difference in preventing their offending in the first place.

### **Coming to terms with being in care**

Some young people were angry that they had been removed from their birth families, did not know or understand why this decision had been made, or did not find out why until after they left care. These young people felt they needed consistent support, empathy and information to help them understand and come to terms with what had happened to them. Many of them did

not feel they had been given this support consistently during their time in care or when leaving care. They felt that feelings of anger had been left unaddressed and had built up, affecting their behaviour in a negative way.

*Nobody wants to be taken in care. The decision to take me into care was devastating.*

Young person in custody with experience of care

*...me and my little sister were taken off my mum by social services due to drugs. They then told me that my mum had been arrested and put into prison and that my dog had been put down. From then, I was automatically angry. From then on it was just an issue of me losing my temper because nobody listened to me or even bothered to care or even bothered to understand my situation.*

Young woman with experience of care and the criminal justice system

### **Multiple changes of social worker**

Many young people spoke about having frequent changes of social worker, feeling unsupported both practically and emotionally, and being unable to form long-term, trusting relationships. This had a profound impact on young people who reported feeling alone and giving up on social workers because they did not expect them to stay for long. Many young people spoke in negative terms about the bureaucratic approach often taken by social workers who would refer constantly to the young person's paper file during meetings and take notes, rather than having a proper conversation. This led to negative feelings about themselves and the care system, and influenced their behaviour in a negative way.

*Communication is bad. They do not explain a case properly. When a social worker starts taking the case of a child they have to start from the beginning again as they were not explained what happened before.*

Young person with experience of care and the criminal justice system

*They don't treat us as human beings.*

Young person with experience of care and the criminal justice system

### **Multiple placement moves**

Many young people talking to the review had experienced multiple placement moves. They reported having no involvement in these decisions and were sometimes moved without understanding why. Some young people explained how this directly led to their offending behaviour, reporting that they would 'act out' (including assaulting care staff and damaging property) as a way of trying to exercise control, and that this often led to the police being called. One young person reported that she had got so used to moving that she now liked it and could not imagine settling anywhere for long.

*Lots of moves never an explanation or asking what I wanted or how I felt. I had seven moves between the ages 13-16.*

Young person in custody with experience of care



One young person in care described her offending history and the impact of multiple placement moves:

*...I think I've got about nine common assaults. I've got two GBHs, and ABH, a few criminal damages, and about eleven affrays, and three breaches of the peace and stuff. But they are all against care staff, the kids I lived with, or against the care home, just because I want to get out. If I don't like it, I want to get out, and I'm willing to do anything...*

*One of [my offences] was threatening someone with a spoon... I got arrested a few weeks ago for throwing a drink over someone. They're not serious offences; I've not seriously hurt somebody, but I'm being moved along, from care home to care home to care home because of that. I've got no stability. I've none at all, so I get used to getting moved, and I enjoy getting moved. It's like a new adventure for me, like a new school, new mates, a new house, a new room, new clothes and stuff. It's quite nice.*

*It shouldn't be like that, though. It's sad to say I'm used to it. I shouldn't be. It shouldn't be like that; I should want to stay in one place, but I don't... I don't think I'm ever going to settle down, just because of the care system and the way it works.*

### **Peer mentors and role models with experience of care**

There was a consensus among young people that they would have found it valuable to have access to peer mentors while they were in care and on leaving care. They felt that they would have benefited from being able to talk to older people with experience of care who could be positive role models and could support them, giving them hope for the future and practical advice and helping them to make better choices: "Someone who's been through it, not just been to uni and studied it." Young people felt that people who have been through the care system have a more credible role to play in reaching young people in care. Young people also felt that people with experience of care were more likely to 'go the extra mile' in supporting looked after children and young people.

### **Knowing what to expect from care**

Some young people spoke about not receiving what they were entitled to while they were in care (such as new clothes or pocket money), and for some this led directly to offending. Some young people did not know what they could expect from their carers (such as helping with homework or providing money for toiletries), or did not have enough confidence in the system to complain.

*I was never aware about small things like they could help me with support at school... I never knew I was entitled to certain birthday allowances or money for toiletries. I used to steal deodorants from ... Poundland because my family wouldn't give me money for deodorants. I feel that support's crap.*

Young woman with experience of care and the criminal justice system

## **Racial discrimination**

Some young people have told the review that they feel they have been the victims of negative stereotyping and unfair treatment by the police and children's social care services, and that their needs have not met, because of their racial background. For many, this has compounded the negative perceptions that they feel are associated with their status as looked after children and young people. Young people have spoken of the need for more peer mentors and role models from their communities to give practical and emotional support to black children and young people in care and those from other minority ethnic groups, and to help them to make better choices.

*You are just not given a chance on the outside as a young black man - you are always judged negatively.*

Young black man in custody with experience of care

## **What leads looked after children and young people to get in trouble with the law?**

Describing how it feels to come into care, young people described strong feelings of unhappiness, isolation, confusion, fear, disappointment and anger. Some described feeling defensive (putting up a wall) or rebellious. Some young people acknowledged that there could be some relief in coming into care, coming to a place of safety after being in a difficult family situation and receiving support that their family had not been able to provide. However, there was general agreement that there tended to be a lack of stability in care, difficulties trusting people and building relationships, and vulnerability to grooming and negative peer pressure. Young people felt that all these factors played a part in leading young people in care to offend. Young people also commented that it was more likely that the police would be called in relation to their behaviour than if they were not in the care system:

*You're being a nuisance to society. Your name is already buzzing around police stations for no reason.*

Young person with experience of care and the criminal justice system

## **The treatment of looked after children and young people in the criminal justice system**

Once they were involved with the criminal justice system, young people had mixed experiences. Some noted that they had more support from youth justice workers than their social worker. There was a general consensus that social workers often did not come to court (for some young people their social worker never attended court with them) and that this should be compulsory. Young people also commented that the court should have information about their background and they did not feel that this happened consistently.

A number of young people found community sentences to be a negative experience, either because they did not feel their time was spent in a valuable way or because they felt they were bullied and abused by the people supervising the orders:

*It's like a youth club, except these people can take you to court.*

Young person with experience of care and the criminal justice system

*They treat you like scum.*

Young person describing the treatment received while carrying out community service

Some young people felt that sometimes you could be proud of what you had done during community service. Young people suggested that it would be helpful if community service was work experience that could be useful for their future. Young people spoke positively about the Care Leavers' Association's Clear Approach programme:

*That's the first time I've worked.*

Young person describing the Clear Approach programme

### **Looked after children and young people in custody**

Young people struggled to say anything positive about being in custody. One commented that being in one place could offer some stability. Another suggested it could be helpful to be around other people who have had the same experiences, and others noted that prison could get you away from a bad situation at home and offer a safe place; it could also be a place to get more support with drug and alcohol use.

However, in general the experience of custody was viewed negatively. As a looked after young person in custody, young people commented that they were 'bottom of the pile' and vulnerable to bullying:

*People start to notice you don't get post or visits and you become a target.*

Young person with experience of care and the criminal justice system

Others talked about the isolation felt in custody and not wanting to go out on the wing. They commented that staff on wings did not know that they were, or had been, looked after and they did not necessarily feel that they would have wanted them to know this:

*You go in on your own and you come out on your own.*

Young person with experience of care and the criminal justice system

Some talked about the particular difficulties of being on remand:

*...not knowing when I'd get out – that was horrible, that feeling.*

Young person with experience of care and the criminal justice system

Young people also described being without financial support in custody:

*I didn't get no money when I went in jail.*

Young person with experience of care and the criminal justice system

## **Planning for resettlement**

One young person found that he benefited from the routine in custody, getting up early in the morning, and he managed to maintain this on his release. It helped that he had support while he was in custody, including visits from his mother and from his personal adviser, and financial support after his release, through a training allowance.

Other young people spoke about the difficulties of finding somewhere to live after leaving custody. They felt it would have helped to have accommodation ready before they were released, as without this it was impossible to focus on getting a job. Some felt that mentoring and group support in custody would be helpful to prepare for release, as well as practical and financial support.

# Outcome One: Strong and determined leadership at national and local level drives a strategic multi-agency approach to protecting children in care from criminalisation

*By 2020 we want all vulnerable children, no matter where they live, to receive the same high quality of care and support. The best outcome for every child will be central to every decision that is made.*

Edward Timpson MP, Minister for Children and Families, 4 July 2016<sup>41</sup>

*It is essential that all councillors understand and contribute to the duty to safeguard and promote the welfare and education of children and young people looked after and to promote their achievements and raise their aspirations.*

Former head teacher<sup>42</sup>

## 1.1 Recognising the problem and taking responsibility

As set out in the literature review accompanying this report, the available research on the correlation between care experience and offending behaviour focuses on two interlinked approaches: ‘risk factor’ explanations, focusing on experiences prior to entry to care; and ‘contamination effect’ (referred to in this review as ‘adverse influence’) explanations, focusing on the impact of experiences, relationships and service provision while in care that serve to criminalise looked after children (Shaw 2014). Risk factors and adverse influences clearly interact, and the impact of this interaction is then exacerbated by involvement with the youth justice system itself, which can further criminalise looked after children.

While the reasons for the over representation of looked after children in the criminal justice system are undoubtedly complex, what is clear is that the extent of over representation is not acceptable. As a society, we are failing to protect a significant minority of children and young people in the care of the state. This is not the fault of a single agency, workforce or government department, but rather a responsibility shared by many and indeed the whole of society. In these circumstances, as has been pointed out by many respondents to the review, strong leadership at national and local level is essential to achieve change.

Statute, regulations and guidance issued by the Department for Education and Welsh government now cover every aspect of children’s social care, including many of the areas which this review has identified as important to protect children from criminalisation.<sup>43</sup> Amid such detailed instructions, it is vitally important for both national and local leaders to have a clear, over-arching vision aimed at supporting children in care to thrive and protecting them against criminalisation. The Children Act 1989, together with the Social Services and Well-being (Wales) Act 2014, and their guidance provide a strong framework for good practice. There are areas in which the guidance could be strengthened, which we identify in our recommendations (pages v - xiv). It appears however that the guidance is not being applied consistently, even in its current form. Strong national and local leadership is required to give this the priority it deserves.

Recent statements by the then Prime Minister<sup>44</sup> and Welsh government and the Department for Education's commitment to radical reform of children's social care<sup>45</sup> offer new momentum to the improvement of outcomes more generally for children in care. However, a sharper focus is needed across all the relevant government departments to tackle the over representation of looked after children in the criminal justice system.

We conclude from the evidence we have examined, that the Prime Minister should appoint (for England) a cabinet sub-committee of senior ministerial representatives of the following government departments: Department for Education, Home Office, Ministry of Justice, Department of Health and Department for Communities and Local Government. Endorsing collaborative work at local level would be best achieved by modelling a similar approach in central government. In Wales, most of this work is devolved and the Ministers for Health and Social Services and Public Services have shown strong leadership. This must continue if further progress is to be made, with effective joint work with relevant government departments in Westminster where this is required. There must be agreement across government on practical steps to be taken in order to give children in care the protection from criminalisation that they need and deserve.

A strong, strategic focus is also needed at local level – primarily for local authorities, police and crime commissioners and police forces, but also by other services including healthcare and education, as well as the Crown Prosecution Service and the courts. In this review, we have heard from local authorities and police forces that have taken a sustained, strategic, multi-agency approach to protecting looked after children from being drawn into the criminal justice system, with strong leadership at the highest level. These efforts have reduced the numbers of looked after children getting into trouble with the law in those areas.

In Surrey, a rigorous, strategic approach to protecting children in care from criminalisation has led to a year on year reduction in the proportions of looked after children getting into trouble since 2011.<sup>46</sup> In Leeds, a sustained and determined approach to improving outcomes for children in care has seen positive results.<sup>47</sup> Warwickshire Police and West Mercia Police<sup>48</sup> have reported success, as have Leicestershire City Council<sup>49</sup> and Staffordshire Police.<sup>50</sup> We have also heard from healthcare practitioners and those working in education about the important role that can be played by these services to help keep looked after children out of trouble. Good practice examples are outlined below (pages 21 - 23) and described in more detail in Appendix Two. Local leaders must be accountable for delivering effective services to protect looked after children from unnecessary criminalisation, and this must be seen as a central responsibility of corporate parenting bodies.

## **1.2 Building confidence and expertise**

Access to a trusted, independent, national source of expertise in good practice would be beneficial in building local confidence. The Youth Justice Board for England and Wales has a statutory duty here and can offer expertise from the perspective of youth offending services in particular. Examples of local practice collated by the Youth Justice Board for this review are summarised in Submission 185.

The Department for Education's proposal to establish an authoritative body for children's social care, performing a similar role in relation to children's social care to that exercised by the National Institute for Clinical Excellence in relation to health,<sup>51</sup> could complement the Youth Justice Board's work in this area by offering a vehicle for spreading good practice in corporate parenting which will also protect children against criminalisation, perhaps establishing a sub-group to champion this work. The Welsh government should consider establishing a similar body.

### **1.3 Why we need a national, strategic approach to protecting children in care from needless involvement in the criminal justice system**

#### **1.3.1 Children in care are still being unnecessarily drawn into the criminal justice system for minor misdemeanours**

The criminalisation of children in care for minor misdemeanours that would not have attracted police attention if they occurred in a domestic home has been documented as a continuing problem in numerous studies in recent years, including, amongst others, a 2013 report by the Department for Education, the House of Commons Justice Committee's 2012 Youth Justice inquiry and a joint thematic inspection by HMI Probation, Ofsted and Estyn in the same year.<sup>52</sup> (Staines, 4.10, p.21) This problem is largely cited in relation to residential care, but may also arise in foster care settings.

Recent studies and inquiries have all made recommendations for more effective, strategic, joint working between local authorities, care homes and the police to ensure that children in care are protected from this kind of unnecessary criminalisation. In 2013 the Department for Education published a report examining behaviour management and reducing offending by children placed in children's homes.<sup>53</sup> The study identified key characteristics within a residential setting that contributed to successfully managing behaviour and reducing the risk of criminalisation. It found that homes with good quality, child-centred practice, a commitment to the parenting role, and a clear mission to provide the best outcomes for children avoided unnecessary criminalisation of the children in their care (also Staines, 4.4, p.15).

The study concluded that "whilst there are examples of excellent practice and a framework in which agencies can work together for improved outcomes, the level of collaboration necessary does not happen consistently. Whilst, in well-managed children's homes, child-centred practice helped minimise challenging behaviour and prevent incidents escalating, partnership working to encourage young people to develop positive behaviour and avoid needless criminalisation could be greatly improved. National Minimum Standards, Regulations and Statutory Guidance particularly the Care Planning Guidance 2010, describe the framework for good practice." The report made a number of recommendations, including the establishment of multi-agency protocols by local authorities. Based on submissions to this review, the extent of implementation appears to be inconsistent.

The Department for Education's statutory guidance on looked after children in the criminal justice system explicitly recognises this problem and the Children's Homes (England)

Regulations 2015 include a standard on positive behaviour which sets expectations for care home staff to promote children's social development and manage challenging behaviour. The Welsh government has set out similar expectations in the codes of practice that support the Social Services and Well-being (Wales) Act 2014.

It must be hoped that the quality standards and guidance will lead to improvements. However the overwhelming response to this review, from magistrates amongst others, suggests that while progress may have been made in some areas, the unnecessary criminalisation of children in residential care for minor incidents which would not have led to police involvement in a 'normal' family home continues to occur. This is borne out in recent research by the Howard League for Penal Reform.<sup>54</sup> (Staines, 4.10, p.21) A number of recent examples have been cited to the review, including one given by a magistrate regarding a sixteen-year-old girl with sixteen placements in two years who was brought to court because she had damaged furniture in her current home when told of yet another move. Eradicating this type of unfair treatment, while not without its challenges, must be a key part of any strategy or joint working protocol aimed at protecting looked after children from criminalisation.

Two youth magistrates told the review that they have recently seen a reduction in inappropriate cases coming before them:<sup>55</sup>

*I think that the incidence of residential staff bringing young people to court isn't quite as regular as it used to be.*

*... we have fewer cases in court now where [looked after children] have been brought for very minor offences.*

However many magistrates have told the review of recent appearances before them of looked after children facing prosecution for minor offences in residential care.<sup>56</sup> A recently retired magistrate told the review that she 'regularly dealt with cases involving young teenagers in the care of the Local Authority' and 'often raised concerns about the way trivial incidents in children's homes resulted in police callouts and prosecutions in circumstances where ordinary parents would never resort to criminalising their own children'. She went on:<sup>57</sup>

*Our Youth Panel took up this issue with the Crown Prosecution Service and the Local Authority, and we kept being given the reassurance that every case involving a looked-after child was reviewed according to a special protocol to weed out minor misdemeanours and only prosecute those cases which passed a 'public interest' test. And yet the young people continued to appear in court for ... kicking doors, squirting shower gel on carpets, using abusive language to staff.*

This magistrate referred to recent improvements in the diversion of first time entrants to the criminal justice system, but noted the lack of impact of these measures on looked after children:



*During my last few years as a Youth Magistrate, a system of triage was used to keep first-time offenders out of Court and this resulted in a dramatic fall in the number of cases coming before us in South Hampshire. While I welcomed the use of alternatives to criminal sanctions for teenage bad behaviour, it was a puzzle that the number of 'looked after children' appearing in Court seemed to remain the same, so that they were disproportionately represented in our lists at each sitting.*

A social work professional commented:<sup>58</sup>

*I worked with a young woman who had a criminal record with 9 offences on, from a 2 year period in a residential setting. One of the offences was arson. Bored, she had been playing with a lighter in her room, set light to a tissue and dropped it when she burned her finger, causing a small hole in the carpet. Her ambition was to work in elderly care but this is extremely difficult when you have a criminal record for arson!*

Some have commented that carers appear to believe they need a crime number to make an insurance claim, whether in respect of property damage or assault against care home staff.<sup>59</sup> However, residential home managers responding to a small survey by the Independent Children's Homes Association have reported that their insurers do not require a crime number and that, in any event, they would not tend to make an insurance claim in respect of damage to property in the home, although they would be more likely to make an insurance claim in respect of damage to a car.<sup>60</sup>

### **1.3.2 Leadership is required to achieve consistent policing practices**

In 2015 the National Police Chiefs Council (NPCC) adopted a strategy for working with children and young people<sup>61</sup> that includes a commitment to reducing the criminalisation of children in care, stating:

*We need to make every effort to avoid the unnecessary criminalisation of children in care, making sure that the criminal justice system is not used for resolving issues that would ordinarily fit under the umbrella of parenting. We need to work with our partners to improve our understanding of the child in care to improve outcomes for them.*

The NPCC is encouraging chief constables across England and Wales to adopt local and regional protocols with children's social care agencies aimed at protecting children in care from criminalisation, offering a sample local protocol and the South East England regional protocol as models of good practice. Police and crime commissioners also have a crucial role to play in offering leadership in this area, and the Home Office should set clear expectations for police forces to adopt local and regional joint working protocols in this area.

Leadership is also required from the Home Office regarding the development of a national crime recording protocol for children in care homes, similar to the protocol in place for schools. This would ensure that police officers have appropriate discretion when responding to minor incidents involving looked after children. Currently, where police are called to a care home in

response to challenging behaviour by a child, if a criminal offence has occurred – however minor – the police are obliged to record this as a crime.<sup>62</sup> In these circumstances, the Home Office rules stipulate:

*There must be a named suspect in the case. The force must ensure that appropriate arrangements are in place with regards to meeting the requirements of the victim's code. The crime report must contain a rationale to support the decision making and must have evidence of supervisory review in an auditable form.*<sup>63</sup>

This differs from the position where police are called to an incident in a school. In that case, following the Crime Recording (Schools) Protocol, it is open to police officers not to record a crime at all but to refer the matter back to the school to resolve under its usual disciplinary procedures, or for the police to record a 'crime related incident' which would not be disclosable. In the case of a more serious offence, or in other specified circumstances, a crime must be recorded following the usual rules.<sup>64</sup>

It is critical for the Welsh government and Department for Education to work with the Home Office to identify and remove any obstacles to the introduction of a similar protocol in relation to children's residential care, as recommended by the UK All-Party Parliamentary Group for Children<sup>65</sup>.

### **1.3.3 Close joint working between local authorities and the police achieves positive results**

We have heard evidence of good practice in some areas, such as Surrey, Staffordshire and Leicestershire, where the introduction of restorative practice, inter-agency protocols and genuinely close joint working and joint decision making on the ground between police, the local authority and care homes, have led to reduced numbers of children in care being involved with the criminal justice system (Staines, 5.3, p.29). These good practice examples are briefly summarised in the following paragraphs and described in more detail in Appendix Two.

This approach is reflected in many police submissions to the review. For example the Police Service for Northern Ireland (PSNI) describes the benefits of close joint working between police and care homes, including effective communication, joint training and joint decision making, in reducing the criminalisation of children in care.<sup>66</sup> The PSNI discuss the "need for clarity and agreement with Children's Homes with regard to situations which require a police response...or where a police response is necessary to safeguard the welfare of the Looked After Child, such as where children are at risk of Child Sexual Exploitation (CSE), put themselves or others at risk through their behaviour including criminality, or where the child goes missing". The increased risks associated with children being placed far from home have been noted by many. The PSNI notes that placing children far from their family 'increases the risk that the child will leave without permission/not return ... and they are then more likely to interface with police'.

Taking a more effective approach to reducing the risk of missing episodes and child sexual exploitation, and ensuring there is a better response when these events occur, carries obvious benefits for young people. This way of working also reduces demands on police time. The Restorative Justice Council (RJC) is amongst many respondents who cite the benefits of restorative practice by care home staff and foster carers as a diversionary measure with children who display challenging behaviour, helping young people to learn the life skills they need to deal with conflict in a constructive way. The RJC describes restorative practice as follows:<sup>67</sup>

*In any setting involving children and young people, restorative approaches teach an understanding of others' feelings and the ability to connect and communicate successfully. They enable young people to think for themselves about how to respond to challenging situations. And they enable young people to build trust and develop more mature responses to a difficult situation...*

The PSNI also describes the benefits of joint training between police and residential care staff to reduce the need for police intervention, and point out the benefits of restorative practice 'to resolve behavioural issues within care homes'.

#### **1.3.4 Summary of good practice examples**

**Surrey County Council and Surrey Police:** Surrey County Council and Surrey Police have worked together since 2011 to reduce the over representation of children in care in the criminal justice system, and have reduced the numbers of looked after children in the criminal justice system year on year for the past five years. From 2011/12 to 2014/15 the rate of offending by children in care reduced by 45%. In 2011 Surrey adopted a multi-agency strategy to reduce offending by looked after children, supported by an inter-agency protocol, a steering group and regular forums for practitioners, as well as an extensive, multi-agency training and development programme on restorative practice, including training for foster carers. They also cite 'transformation' of Surrey youth justice, in particular through the introduction of the Youth Restorative Intervention (YRI)<sup>68</sup> and joint decision-making by the youth support service and police. The Get The Data external evaluation of Surrey's work describes savings of £3.41 for every £1 invested in the Youth Restorative Intervention (for all children and young people) and concludes that "the YRI reduced the unnecessary criminalisation of young people, reduced reoffending, provided better interventions for victims, improved victim satisfaction and reduced costs to the youth justice system".<sup>69</sup>

**Gwent:** In Gwent a protocol has been agreed and implemented to reduce the prosecution of looked after children. The protocol is underpinned by the training and use of restorative approaches where this is a safe and appropriate response to challenging behaviour by looked after children and young people. The aim of the protocol is to reduce the number of looked after children being arrested for minor offences that would not have come to police attention if the children had been living at home with their parents. The programme also offers training and support to foster carers and residential unit staff, and should also stabilise placements.

**Leeds City Council:** Leeds City Council has adopted the ambition to be ‘the best city for children and young people to grow up in’. This work includes a partnership between Leeds youth offending service and the Care Leavers’ Association who developed the Clear Approach programme, acknowledging the strong correlations between care experience and involvement with the criminal justice system; a focus on ‘Best Start’ and ‘Early Help’, which has contributed to a reduction in the number of children who are looked after or on child protection plans; investment in reunification, including through the Multi-systemic Therapy Family Integrated Transitions (MST FIT) programme;<sup>70</sup> and an ongoing ambition to achieve a whole city restorative approach, incorporating not just children’s social work services, but also wider children’s services, education settings, criminal justice settings and beyond as an integral part of the Leeds approach to better outcomes for children and families.

In the year ending October 2015, Leeds saw a reduction in the percentage of children and young people known to the youth justice service who were looked after, from 13% to 10.5%. This represented a reduction in the percentage of looked after children in Leeds who were known to the youth justice service, from 7.6% to 5.4%.

**Warwickshire Police and West Mercia Police:**<sup>71</sup> Warwickshire and West Mercia Police have established an alliance through which they are working to protect looked after children from going missing and from unnecessary criminalisation, and to reduce unnecessary demand on police time. In July 2015 they established a Resilient Care Home Team in Shropshire, where the majority of the 140 care homes in the region are situated. The team consists of two full-time police officers who have worked with care home staff and care providers in the county, as well as children’s social care services and Ofsted, to build good relationships with care home providers and children in care, to support care home providers to respond effectively to missing episodes and to manage challenging behaviour without unnecessarily involving the police, and to hold care providers to account. This has been done through a combination of visits to care homes, restorative justice training by the police for care home staff, and the establishment of joint decision making panels with children’s social care services in order to ensure that individual looked after children do not face formal criminal justice proceedings unless absolutely necessary. In the first six months of the programme, Shropshire saw a 32.25% reduction in criminal offences recorded involving looked after children and a 31.63% reduction in missing person reports. Whereas in 2014/15, 14% of cautions given to children in the county were to looked after children, in the first three quarters of 2015/16 this had reduced to 7.7%.

**Leicestershire City Council:** In Leicestershire, following concern about the number of young people getting involved in the youth justice system, mainly for low level offences, a programme of restorative justice was introduced from 2007-2010 to establish a restorative approach across the children’s homes in the county, to enable the staff in the homes to manage low level behaviour without recourse to the police.<sup>72</sup> An independent evaluation found that there was a substantial reduction in convictions and offences committed by children and young people both inside and outside homes.<sup>73</sup> Ongoing work includes attempting to engage private children’s homes in this agenda.

**Staffordshire Police:** A number of respondents have discussed the risks of criminalisation associated with children going missing from care. (Staines, 4.9, p.20) We heard evidence from Staffordshire Police, whose proactive, close joint working with local care homes has led to a reduction in missing episodes.<sup>74</sup> Key to this work has been the allocation of a named police officer to each residential home, and the expectation that they visit as part of their general duties, whether there is a specific problem or not.

Further examples appear in Appendix Two.

### **1.3.5 Spreading good practice nationwide**

In recognition of the high prevalence of placements of children outside their local authority area, ten local authorities and four police forces in the South East of England have signed up to the South East England protocol to reduce offending and criminalisation of children in care.<sup>75</sup> (Staines, 4.7, p.18) The South East England and Gwent protocols are models of good practice and should inform the development of protocols across England and Wales. Central government and the Welsh government should support this by the development of concordats to protect looked after children against criminalisation (recommendation 1).

As well as the transformation of outcomes for children and young people, and improvements in morale for those working with them, the costs savings referred to in the examples above should be a further incentive for spreading good practice. Charlie Taylor has indicated he will be considering how this may be increased by the devolution of criminal justice budgets to local authorities.<sup>76</sup>

As the examples above illustrate, protecting children in care from criminalisation does not have to be done in the same way everywhere – nor should it be. However, it appears from the submissions to this review that some common features are likely to be needed in any strategy to protect children from criminalisation, including:

- (a) Recognition there is a problem that we can do something about (looked after children are being unnecessarily drawn into the criminal justice system);
- (b) Strong leadership and high aspirations for looked after children, and determination to reduce the numbers and proportion of looked after children getting in trouble with the law;
- (c) Establishing an accurate baseline and accurately measuring progress (at local level this means rigorously cross-referencing data with the Police National Computer to establish how many looked after children are getting formally involved with the criminal justice system);
- (d) Establishing common goals and close joint working protocols between all relevant agencies and institutions, including residential care homes, police, schools, health services and other agencies, and work determinedly to ensure that close joint work happens in practice;

- (e) Learning lessons from each instance where a looked after child enters the youth justice system, and custody in particular;
- (f) Ensuring that a systemic approach still allows for a focus on the individual; and
- (g) Ensuring that:
  - (i) Children in care are protected against criminalisation for minor misdemeanours
  - (ii) Children in care are protected from going missing (so are placed locally unless there are clear reasons not to do this based on the child's care plan)
  - (iii) The particular needs and characteristics of children in care who are in minority groups are understood and met to protect them from criminalisation (see Outcome Four).

Based on our findings, we make the following recommendations for change:

## **Recommendation 1 – Provide national leadership**

We recommend the formation of a cabinet sub-committee (England), or equivalent body (Wales), to provide national leadership in protecting looked after children and young people from unnecessary criminalisation by ensuring there is good joint working, proper regulation and policy development across UK government departments, and across the Welsh government, to act as an example to local government services, and by:<sup>77</sup>

- 1.1 Commissioning and disseminating a cross-departmental concordat on protecting looked after children from criminalisation, to reinforce the statutory obligations of all relevant agencies and highlight the need for joint action:<sup>78</sup>
  - (a) Each concordat should require local authorities, police and other relevant agencies to set and deliver locally agreed outcomes to reduce the criminalisation of, and offending by, children and young people in care;
  - (b) Both concordats should be developed within one year. Within the same period, any corresponding amendments required to statutory guidance should be identified and put in place. There should be a further two year period for implementation followed by regular review. Each concordat should be guided by the principles set out in Appendix One.
- 1.2 Ensuring that common standards are set for the collection, analysis and publication of data about children and young people in the criminal justice system who are or have been in care so that we can all be better informed about their needs;
- 1.3 Ensuring inspection measures and assessments of performance are set that address criminalisation, in particular:

- (a) Inspections of local authorities, children’s homes and schools by the relevant inspectorates should specifically measure performance based on the level of involvement of their looked after children with the criminal justice system and the consistency of local authority support for looked after children who become involved with the criminal justice system, and should routinely report on this.<sup>79</sup> In the case of local authorities this should include, for example, asking in advance of inspections how many times the police have been called out in the previous 12 months in relation to the behaviour in a care home of any child looked after by that local authority. In the case of inspections of individual care homes, advance information should be requested concerning the number of police call outs in the previous 12 months in relation to the behaviour of any child in that care home.
- (b) Inspections of youth justice services by the relevant inspectorates covering health, children’s social care, education and training should also specifically measure performance based on outcomes for looked after children.

1.4 Ensuring the convergence of information systems running between children’s social care and youth justice services both in England and Wales.

1.5 Ensuring that the newly proposed authoritative body for children’s social care in England, based on the ‘What works’ model<sup>80</sup>, works alongside the Youth Justice Board for England and Wales to disseminate information about leading practice in protecting children in care, and those on the edge of care, against criminalisation; and that in Wales consideration is given to the development of similar arrangements.

## **Recommendation 2 – Achieve consistent police practice**

We recommend that the Home Office should:

2.1 Advocate the adoption and implementation of regional police protocols throughout England and Wales to reduce the prosecution of children and young people in care, modelled on the South East England and Gwent protocols;

2.2 As proposed by the All-Party Parliamentary Group for Children<sup>81</sup>, review the Home Office Counting Rules and develop a new outcome, allowing police forces to record low-level, crime-related behaviour by children and young people in a way that ensures referral to a welfare agency to address the behaviour, does not create a criminal record and cannot be disclosed by an enhanced Disclosure and Barring Service check;

2.3 In consultation with the Department for Education and the Welsh government, commission and publish a crime recording protocol for incidents in children’s care homes, similar to the protocol in operation for schools; and

2.4 Require police and crime commissioners to set clear expectations for police forces to work in collaboration with local authorities and other agencies to protect children in care from unnecessary criminalisation. Police and crime commissioners should take account of the needs and circumstances of looked after children when commissioning services to reduce crime in their local area.



## Outcome Two: The important role of early support for children and families at risk is recognised

*When I was two years old my Dad left and it messed my Mum's head up. I've been in care since I was nine or ten. I first went into care when my Mum hospitalised my little sister, due to mental health.*

Young person aged 15 years

*...natural parenting needs to be much more highly valued than it often is, with the recognition that this is a demanding vocation.*

Former social worker<sup>82</sup>

*...please look more at what happens to cause children to be brought into care in the first place. For example, at the research into Foetal Alcohol Syndrome Disorder and Attachment Disorder, brain-based development and the lasting psychological effects of neglect and abuse and rape.*

Registered social worker<sup>83</sup>

### 2.1 Introduction

Most children in care do not offend. However, 'risk factor' explanations for offending by looked after children and young people, focusing on experiences prior to entry to care (Staines, 3, p.7), suggest that early help services have an important role to play in preventing the criminalisation of children in care and those on the edge of care.

There is a significant body of evidence about the importance of early support for children and families on the edge of care, to ensure that each child has the best possible start in life. Substantial work is ongoing at national and local level to sustain and develop this work, although some local authorities have expressed concerns to the review about the longer term sustainability of early help in light of financial constraints.

There are examples of good practice, such as Leeds City Council (see above), where local investment in early help has led to direct savings. Central government has a role to play in ensuring that good practice is promoted, to enable early help to be sustained and developed consistently across England and Wales. This work should include a specific focus on protecting children from criminalisation.

For nearly two-thirds (61%) of children in care on 31 March 2015, the main reason they became looked after was that they had suffered abuse or neglect.<sup>84</sup> Good parenting by birth parents provides a solid foundation for the building of resilience, good health and wellbeing, and the social skills needed to have the best chance of avoiding poor outcomes, including behaviour that might lead to involvement with the criminal justice system.<sup>85</sup> Many respondents to this review, including the British Association of Social Workers (England)<sup>86</sup> and Agenda,<sup>87</sup> have highlighted the need for focus on, and investment in early intervention to support children and families who may be on the edge of care. Concerns have also been raised by many about losing early help support

for children and families as a result of funding cuts, including cuts to voluntary sector services.<sup>88</sup> One experienced former social worker and youth magistrate told the review that a key priority should be “early intervention with struggling families by children’s services rather than brief interventions and then closing the cases only to have to return at a later date when matters have deteriorated”.<sup>89</sup>

## 2.2 Preventing traumatic early experiences

Seeking to prevent traumatic early experiences in the first place must be at the core of any strategy to protect children in care against criminalisation. Action for Children’s ‘A Stitch in Time’ campaign, launched in 2014 with an alliance of children’s charities, seeks better early care for children in order to achieve improved outcomes for children and young people, including a reduced likelihood of young people resorting to crime and anti-social behaviour.<sup>90</sup> Recent progress in early support work, underpinned by the 2011 Allen Review<sup>91</sup> and subsequent work by the Early Intervention Foundation (EIF), is welcome and succeeds in making the economic case for investment in early intervention in order to avoid the later costs of damaging social problems affecting young people.<sup>92</sup> The personal commitment of the Secretary of State for Education to early intervention is important, as is the commitment of the Welsh government.<sup>93</sup>

Some respondents to this review have argued strongly that more time should be taken to support family networks to find solutions where this is safe and appropriate, and with support, before removing a child and placing them with strangers, including through the use of Family Group Conferences.

*...we have a system that is particularly quick when there’s a problem to remove people and place them with strangers without spending enough time to sort things out within kinship networks, family networks, community networks.*

Nigel Richardson, Director of Children’s Services, Leeds City Council, 25/06/15

It is essential that investment in early intervention services is sustained and developed. This should include children’s centres which have offered a valuable forum for targeted, intensive support and assessment for families on the edge of care. Sustaining early intervention is undoubtedly challenging for local authorities in the face of significant financial constraints. However we lose these services at our peril. Central and local government should work together to ensure that effective support can always be offered to those children and families most in need.

## 2.3 Early intervention in adolescence

Also essential is early intervention for older children and young people. As the Association for Directors of Children’s Services (ADCS) has commented, it is widely acknowledged that, as a nation, we do not adequately understand, identify, prevent or effectively reduce the significant risks that some adolescents experience, despite some excellent practice at local level.<sup>94</sup> Some have suggested that supporting families to stay together is particularly important where older children are concerned.<sup>95</sup> Where intensively supported care within their birth family or extended family is a possibility for such young people, it may offer a less disruptive solution with better long term prospects for rebuilding and sustaining the young person’s relationships with their family.

Andy Elvin, Chief Executive Officer of the independent fostering agency TACT, told the review about the work that TACT is doing to support young people to stay with their families:<sup>96</sup>

*Older children entering the care system are especially disadvantaged and thought should be given as to how to support these young people within their own families. TACT is working with Cardiff Council to use our foster carers to support the whole family, not just the child, and so use the expertise of the foster carers to change the dynamic in the family home whilst offering respite as needed without the young person coming into care full time.*

The review heard about a similar model of intensively supported care by families and extended families run by the charity ACER in Brazil.<sup>97</sup>

However, this is not uncontroversial. Some respondents have raised concerns that keeping children and young people with their families for longer can lead to more complex challenges later on<sup>98</sup> and can even be a way for local authorities to avoid responsibility for children and young people and save costs. One care home manager argues:<sup>99</sup>

*Cash strapped Local Authorities are leaving children in abusive families for much too long in an attempt to save money but dressing it up by calling this strategy things like “working together for stronger families”.*

## **2.4 Conclusions**

We conclude that intensive support should be offered to families who are struggling, not as a cost saving exercise or because it is the ‘easiest option’<sup>100</sup> for local authorities, but as a strategy to enable children to stay with their families wherever possible, unless this is contrary to their best interests. Where it is not possible for children to stay with their birth families, prompt, child-centred decisions must be made to remove the child. These decisions are at the sharp edge of child and family social work and we do not under-estimate the challenge faced by practitioners in making such difficult judgements. Ongoing improvements in the education and training of social workers are critical, as well ensuring there is proper support and supervision by senior managers, time to spend building a relationship with the child, and opportunities for reflection. These core building blocks of child protection will have a profound influence on the risk of a child later being criminalised.

Based on our findings we make the following recommendation:

### **Recommendation 3 – Provide early support for children and families at risk**

We recommend that each concordat on protecting looked after children from criminalisation (see recommendation 1) should explicitly recognise the important role that early support for children and families plays in protecting children and young people in care, and those on the edge of care, against criminalisation. This should include commitments by central and local government to work together to ensure that early support services aimed at protecting children and young people from maltreatment, neglect and inadequate parenting are sustained and developed.



## Outcome Three: Good parenting by the state gives children in care the best chance to thrive and protects them from criminalisation

*...the care system...truly saved my life.*

Young woman with experience of care and the criminal justice system

*Care needs to mean care. A child in the care of the state should be given the best possible home environment... I am sure there are individual examples of excellent care ... but overall the state is failing children who have already been failed by their families. We fail to give them good quality family care and we punish them when they misbehave... Send them out of the care system with a criminal record and their future burden on society is assured.*

Retired magistrate and school governor<sup>101</sup>

*As professionals, we have to make damn sure that we replace or rebuild the family relationships that we are disrupting.*

Isabelle Trowler, Chief Social Worker for Children and Families (England), oral evidence session, 10/09/15

Submissions to this review, and the existing body of research (Staines 2016), make clear that the reasons underlying offending by children in care are complex and will differ for each individual. The impact of experiences before coming into care is undoubtedly a significant factor, as described under Outcome Two. The way in which carers, social workers, schools and the police respond to challenging behaviour by children in care is also important in protecting children against unnecessary criminalisation. This is touched on under Outcome One and covered in more detail under Outcome Five.

Also centrally important to helping children in care to stay out of trouble with the law, is the treatment they receive from the state as their parent - particularly carers and social workers - as well as health services, schools and leaving care services. While this review makes no attempt at a comprehensive study of the care system, we have found it impossible to examine the reasons underlying offending by children in care without considering the central role of the state as the child's parent.

Submissions to this review strongly suggest that the way children and young people are treated while they are in care influences the likelihood of them becoming involved with the criminal justice system (Staines, 4.4, p.15). In particular, it appears that children and young people in care are less likely to offend if they enjoy positive relationships with trusted adults and stable care placements that feel like home, and if they are enabled to thrive in education.

Recent research has concluded, and many respondents to the review have pointed out, that good quality care is protective, with those coming into care at a younger age most likely to have good outcomes. However, less effective care can fail to support children to overcome challenges

resulting from early life experiences, and can even create additional problems.<sup>102</sup> Good practice exists in some areas. However, it is clear from the submissions to this review, and from the published data on offending and other outcomes for looked after children, that too often the care system is failing to give children and young people the conditions they need in order to thrive (Staines, 2, p.3).

It is clear from the evidence we have received, that the way in which children and young people in care are treated by carers, social workers and others working with them can have a profound influence - whether positive or negative - on their choices and actions. It may be difficult to establish clear evidential links between the treatment of children by social workers and carers and offending by children in care, but young people giving evidence to this review about their own lived experiences have made that link very clearly.

Much of the young people's evidence is reflected in submissions to the review by carers, social workers and other professionals, as well as the existing body of research (Staines 2016). The following common themes emerged as essential to protecting children in care from criminalisation:

- 3.1 Stable placements that feel like home (usually close to home or in an area where the child feels comfortable)
- 3.2 Positive relationships with trusted adults
- 3.3 Information about how children should expect to be looked after and access to independent advocacy
- 3.4 Peer mentors and role models
- 3.5 Support to maintain or rebuild family relationships where safe and appropriate
- 3.6 Education and other constructive activities - having opportunities to thrive and building aspirations
- 3.7 Mental health and emotional wellbeing – a whole system approach.

Recommendations relating to all these points are made at the end of this section. Young people responding to the review also discussed the importance of recognising and responding appropriately to diversity and providing support with any additional needs. Those areas are covered under Outcome Four.

Children in care should benefit first and foremost from a positive, consistent and trusting relationship with their primary carer. In addition, they should have the opportunity for positive and consistent relationships with professionals involved in their care, such as social workers. Children and young people have also told the review of the important relationships they have had with volunteers, such as Independent Visitors.

Review submissions make clear that it matters to children and young people that care placements are chosen in consultation with them, and that they should be close to home wherever possible, unless creating distance is necessary to safeguard the child's physical or emotional safety. Foster carers and residential care staff need to have the skills and additional support required to look after children and young people with traumatic early experiences. Specialist training and support can enable carers to support children and young people in developing socially acceptable behaviour, can help carers to cope with challenging behaviour without unnecessarily involving the police, and can improve placement stability.

Many young people have told the review about the particular value of mentoring and support that they believe can be gained from peers who have been through the care system themselves. More could be done to explore how birth family members could be better involved in supporting children and young people in care. Family members will often play a lifelong role in the lives of people who grow up in care, and active support can help to ensure these relationships are as positive as possible. However, this should only be pursued where it is safe and in the child's best interests and, crucially, where it is in accordance with the child's wishes and feelings. In all cases, it should be ensured as far as possible that when children and young people leave care, they are not forced into contact with, or dependence on, their birth families due to a lack of other support.

### 3.1 Stable placements that feel like home

*...With the right [carer], [children in care] begin to develop and to internalise values that encourage self-esteem and in the longer term discourages their involvement in offending behaviour.*

Independent social worker and psychotherapist<sup>103</sup>

*There are not enough good children's homes and there are not enough experienced foster carers who can support the more challenging looked after child who is more likely to offend.*

Adoptive parent<sup>104</sup>

*I'm not saying the care system's perfect but, for me, it just took one person to change my life and that person was my foster mum.*

Young woman with experience of care and the criminal justice system

Many respondents have cited the serious challenge that exists in replacing family relationships within the care system, enabling children to be loved, have a sense of belonging and to have consistent relationships with trusted adults that last throughout their childhood and into adulthood. When children are able to develop strong relationships with their carers, the results can transform children's lives, as the young woman quoted above makes clear. A number of young people with experience of care and the criminal justice system, when asked what helped them to turn their lives around, referred to their foster carers. We also received evidence of good practice from residential care providers offering specialist support to children with complex needs.<sup>105</sup> However, for children who are not able to develop these important relationships, and for those who experience multiple placement breakdowns, the negative impact of this may include offending behaviour.

Many respondents emphasise that the development of stable and positive relationships between children and their carers is an important element of protecting children in care against criminalisation. It appears the following components are conducive to achieving stable placements:

- 3.1.1 Availability of suitable placements in the local area to meet local need, with specialist provision available where needed;
- 3.1.2 Choosing placements based on children's best interests, wishes and feelings; and
- 3.1.3 Carers with the right skills and support to promote placement stability.

### 3.1.1 Placement stability

Of all children looked after on 31 March 2015, 67% had one placement during the year, 22% had two placements and 11% had three or more placements.<sup>106</sup> Figures for Wales show slightly greater stability with 71% of all looked after children having one placement during the year, 20% having two placements, and 9% having three or more placements.<sup>107</sup> Young people told the review of their distress at experiencing multiple placement moves and often not knowing the reason they were being moved:

*Lots of moves never an explanation or asking what I wanted or how I felt. I had seven moves between the ages 13-16. Social workers never supported me.*

Young person with experience of care, HMPYOI Feltham

The negative implications of placement moves for children's emotional wellbeing and social development were powerfully expressed by practitioners and those with experience of care:

*When a child is moved the message is: "you are not wanted or loved" and the child is deprived of the vital security and stability that is necessary for healing to take place and for 'belonging'.*

Former social worker<sup>108</sup>

*I was moved from county to county a number of times. I was eventually moved as a 16 year old to a church hostel...little attempt was made to stabilise me. I had numerous social workers and health professionals and no attempt was made to house me with anyone in my extended family. I therefore lost all identity and felt unloved. Gravitating to a criminal group was always easy.*

Child Adolescent Mental Health Service (CAMHS) Community Nurse reflecting on his childhood in care<sup>109</sup>

A number of drivers for placement breakdown have been identified by respondents to the review. These include a lack of availability of suitable placements to meet children's needs; placement choices which are driven more by financial or other organisational concerns, rather than children's needs, wishes and feelings; and placement breakdown as a response to challenging behaviour by children (Staines 4.5, p.16). Placements away from the child's home area were also identified as likely to increase children's vulnerability and isolation (Staines, 4.7, p.18).



### 3.1.2 'Out of area' placements

Since 2014, 'distant placements' for children (namely placements outside the area of the responsible authority and not within the area of any adjoining local authority), must be approved by the director of children's or social services and there must be consultation with children's services in the area of the placement.<sup>110</sup> Guidance from both the Department for Education and the Welsh government sets out a range of measures aimed at ensuring that unsuitable placements are not made, and that there is effective communication between local authorities where children are placed out of area.<sup>111</sup>

The Welsh government told the review that it is concerned about large numbers of children from England being placed in out of authority placements in Wales, and a lack of effective planning and information sharing to determine the availability of local education, health, social and other services to meet the child's needs. The Welsh government has developed a protocol for notifying the local authority and local health board when a child has been placed there from outside the area, and again when the placement ends.<sup>112</sup> There is obvious merit in adopting this more thorough approach across all placements in England as well, albeit there remain concerns about implementation.

Submissions to this review from young people and practitioners make clear the detrimental effect of placing children a long distance from home, unless specific circumstances exist that mean this is in the child's best interests. This is a significant problem which can destabilise placements and increase the vulnerability and isolation of children in care. Practitioners also raised the practical difficulties that can arise where children are placed at a distance to their local authority. These difficulties are compounded where children get in trouble with the law and require the support of their local authority through that process (Staines, 4.7, p.18).

A group of young people with experience of care in Feltham Young Offender Institution spoke to the review about the impact for them of being placed far from home. Some directly linked this to their offending behaviour:

*I didn't get to see my family much and when I did it would be a brief visit because I would then have to travel back [from London] to Southend.*

*They moved me from Harrow to Clacton Essex. That's where I got into drugs.*

One young man suggested what would help:

*Keeping us near to family, so that we can get family support.*

A young person in care explained the impact of being placed out of area on the support she had received from social workers:

*I've had seven social workers. My first social worker was called [Shaminder]. I really liked her because of the foster placement she put me in; I liked it, so obviously, I liked her... But since her, I didn't really like any of them, because I'd get the bond with them, then I'd move under a different local authority. Or I'd move to a different area, and then I'd have to get a new social worker.*

Some local authorities have told the review of their difficulties in finding suitable placements for all looked after children within their local authority area. In the case of residential children's care, this may be connected with the closing of many local authority children's homes and increased reliance on independent homes, which has resulted in an uneven spread of children's homes across the country (Staines, 4.7, p.18).

There is also a lack of local foster care provision in some parts of the country. A Looked After Children Education Service manager told the review:

*The lack of options in terms of foster care is a huge issue. If a child is uprooted from everything s/he knows and is placed miles away with complete strangers, there is little about this process that shows the child they are being cared for.*<sup>113</sup>

This respondent recommended banning out of area placements "unless they are for the young person's own safety" and providing "regional centres of therapeutic excellence for supporting children and young people who have experienced abuse and neglect. Not a 'rag-tag' collection of private providers but a state funded evidence based resource."

The Fostering Network described to us the difficulties accessing services that can arise for children placed outside their local authority area:

*The placement of looked after children outside of local authority boundaries can be problematic if information is not shared, in that it can affect access for these children to crucial services, especially specialist ones such as mental health and education support.*<sup>114</sup>

A magistrate told the review of the implications of 'out of area' placements on education and noted the additional resources required to manage out of area placements, recommending:

*Clearer line of responsibility in [youth offending services] and in the (excellent) Virtual School structure for youths placed out of area need to be established, with much better communication. This should be assisted by IT. It seems that budgets need to recognise the extent of the numbers of out of area children in care.*<sup>115</sup>

A number of youth court magistrates raised concerns about the treatment received by children in care who recently appeared before them, including placements far from home:<sup>116</sup>

- A seventeen-year-old boy appeared in court in South East England having assaulted a member of staff in the care home. After court he was to be taken to an entirely unfamiliar care home in East Anglia.
- A boy in need of a therapeutic placement had been placed in a home where he received no long-term counselling to deal with his own abuse.
- A sixteen-year-old girl who was happy with her foster carers, and they with her, had been told she was to be placed in independent accommodation in a different town with two unknown adult males.

- A court was told that a sixteen-year-old girl's last "meeting" with a social worker was a telephone conversation due to her behaviour on previous occasions.
- A sixteen-year-old boy from the south coast was brought before a court in North West England. When asked why he was now there, he replied that he had absolutely no idea since he had no connection whatsoever with North West England but that was where he had been placed.

### 3.1.3 Placement choice

Many respondents told the review that there are not enough high quality placements available to meet local demand, particularly for children with more complex needs or who may exhibit more challenging behaviour. Some raised concerns about the increasing prevalence of independent children's homes, and a perceived loss of control of care by local authorities. Whereas in the past local authorities may have relied on their own residential children's homes and foster care workforce, many local authorities have reduced their in-house provision and rely to a large extent on independent providers (Staines, 4.7, p.18). The implications of this for placement choice may be cost driven and some have argued they might include:

- A tendency for independent provision to be concentrated in cheaper and sometimes less desirable areas. (However Ofsted have found that children in children's homes are less likely to be living in the most deprived areas than children who are fostered, albeit there are five local authorities where children in children's homes are more likely to live in the most deprived areas.<sup>117</sup>)
- Staff conditions may be worse and staff may be less well qualified
- Care homes may claim expertise in a wide range of areas to maximise demand
- It may be harder to agree protocols and influence behaviour management in an independent setting.

The point has been made by some respondents that risk averse inspection can contribute to lack of placement choice, by leaving commissioners feeling they cannot place children in homes that are getting poorer inspection results, even though this may simply be a function of their willingness to care for more challenging children.<sup>118</sup>

An independent consultant specialising in commissioning for children in care suggested that there needs to be better access to the full range of placements that are available and is amongst a number of respondents who suggest that the expertise of social workers could be better utilised to inform commissioning and monitor outcomes:<sup>119</sup>

*Join up contracting with social workers and [Independent Reviewing Officers] so that outcomes in placements can be better monitored. There is a huge chasm between social care and commissioning although both have such a major impact on the success of a placement.*

She argues that, when it comes to choosing a placement for an individual child, local authorities are too often driven by organisational concerns rather than the child's needs. She recommends:

*Discourage blanket policies! Ensure there is a culture of the sector doing what is best for each individual young person regardless of whether this may impact negatively on performance indicators or targets. It is wrong that we have a sector which sometimes does not do what is right for a child because it may impact on their data sets. We need a culture that challenges this.*<sup>120</sup>

A number of young people have told the review that they have never been consulted about the choice of a placement for them. Andy Elvin of TACT suggests that placement choices are often driven by financial concerns rather than the best interests of the child:

*Local authorities are hamstrung by the year on year funding model which means middle managers holding budgets often make placement decisions based on in year budget considerations rather than based on the best interests of the child over the whole lifetime of the child.*<sup>121</sup>

He suggests that these financial pressures might be addressed by introducing 'personal budgets for each child who enters care and is likely to remain in care for over a year' to last up to the age of 21 years, thereby freeing decision makers from 'having to juggle short term financial pressures with the long term best interests of the child'.

### **3.1.4 Placement breakdown as a response to challenging behaviour**

One driver of placement moves is undoubtedly the breakdown of placements as a response to a child's challenging behaviour (Staines, 4.5, p.16). One independent social worker described to the review the damaging effects of such placement breakdowns for vulnerable young people:<sup>122</sup>

*The placement moves as a result of bad behaviour and the possible escalation through to secure are exactly what should NOT happen, they reinforce the young person's view of themselves as 'bad', 'unlovable' and give them no reason to behave in a more helpful and positive way in their lives even though they may well know that they are harming themselves now and for their future.*

She illustrates this point through the following story taken from her own research with adults reflecting on their time spent in care in the 1980s:

*Michael (a one man crime wave at 15) and others who lived at [a children's home] said that the thing that made the difference for them and gave them hope for the future was that they knew this was a place that would always welcome them back, that they could return to after a scary and miserable experience and they would be treated as themselves and not a criminal and that adult behaviour towards them was not based on their recent behaviours. Indeed Michael said that while this was a comfort it was also*

*the worst punishment as on his return from the police station, when a member of staff who he knew would collect him, the first questions were always have you eaten? do you need a bath? did you get any sleep? And that this made him feel really bad about what he had done.*

Another respondent reflected on his time in care during the 1970s: “Arguing with staff in the home resulted in being moved to different homes.”<sup>123</sup> This respondent was taken into care after committing offences “ranging from shop lifting to burglary”. He went on:

*Being passed from place to place with no guidance on social skills is detrimental to individuals who see this as the norm and believe they no option is the main cause for becoming integrated within the justice [sic] and some even rely on the justice system as a way of life...*

He was eventually placed in a children’s home with a therapeutic approach, which he credits with turning his life around:

*[The home was] a therapeutic community where we were treated like family members and did chores on a rota, cooking, cleaning etc and had regular meetings to discuss our issues. We were guided to confront and control issues which affected us even if talking about it made us angry and if we became angry within the group then the group dealt with it in whatever was the most appropriate way until it was under control and managed. This was the best place and the best guidance I have ever received in my life and has allowed me to become a normal member of society.*

### **3.1.5 Foster care**

Research evidence generally shows that children in residential care have more involvement with the justice system than those placed with foster carers, although this may be due to the increased prosecution of looked after children in residential care and the use of residential care as a last resort after other failed placements. (Staines, 4.1, p.13)

Young people have spoken to the review more positively about foster care than about residential care, but they have made criticisms of both types of placement. The main determining factor in these submissions has been the quality of the young person’s relationship with their carer and whether they feel they were treated kindly and fairly by them. One respondent reflecting on her time in foster care some decades ago commented:

*It must be established that those caring for the children actually care about them. Mine couldn’t stand me. There must be regular checks and private discussions with the child to highlight any issues.*<sup>124</sup>

Many respondents to the review have spoken of the benefits of foster care, and the current shortage of foster carers, particularly for older children:

*There should be more efforts to recruit stable and long term foster carers, so children don’t move around so much. This would result in better educational attainment which*

*would in turn lead to better employment and education chances...I work with many young adults who are still struggling with feelings of abandonment and not being loved. Quality long term accommodation placements also help address this.*

Social work professional<sup>125</sup>

*I believe that long-term fostering is a good way of reducing the chances that a child will reoffend. A traditional family model is the best – so the care system needs to mimic that as closely as possible.”*

Managing director, PET-XI Training<sup>126</sup>

The Fostering Network reports a shortage of over 8,000 foster carers in England and Wales, with an ongoing and urgent need for more foster families to provide homes for teenagers, disabled children, unaccompanied asylum seeking children, and sibling groups.<sup>127</sup> This shortage means that in many local areas, suitable high quality placements are not available to meet local demand (Staines, 4.1, p.13). In order to ensure local foster care placements are available to meet local needs, and to minimise placement moves and give children in care a stable platform, some local authorities are investing in the recruitment of greater numbers of foster carers, and in developing a more highly valued, highly skilled, vocational foster care workforce.

Local authorities also rely to a large extent on independent fostering agencies, some of which have a similar focus on training and support for foster carers. The Fostering Network, for example, notes the need for training and ongoing support for foster carers, and the need for foster carers to have appropriate autonomy:<sup>128</sup>

*Foster carers must also be trained and crucially supported to meet individual children’s needs, with extra training and support available at particularly challenging times. Authority for day-to-day decisions must also be delegated to foster carers to enable them to provide care for young people that helps them to mature and grow into young adult life.*

Local multi-agency, professional networks such as the Surrey Reducing Offending Forum can offer a valuable way of sharing good practice.

Respondents to the review have pointed out that ongoing support is in fact required for both the child and their carer in any type of placement in order to minimise the likelihood of breakdown (Staines, 4.3, p.14). This includes placements with relatives, whether through kinship or connected persons care or special guardianship, and adoption, and sometimes the support needed is lacking:

*Post-care adoptive families MUST be supported as the strain of dealing with extreme behaviour will lead to breakdown of placement or years of stress to the families.*

Adoptive parent<sup>129</sup>

Many foster carers have told the review that they feel undervalued, that they are not sufficiently involved in decisions about children in their care, and that they receive inadequate support (including financial) in caring for teenagers exhibiting challenging behaviour:

*We are often ignored by those who are deemed “the professionals” when decisions are being made about returning kids to their biological families or moving placements in house from places where the young people are happy and settled.*

Foster carer<sup>130</sup>

*Concerns raised by foster carers for the welfare of the young person in their care are frequently ignored or no action taken...there are no consequences for a looked after child’s misbehaviour as social workers take little or no interest unless a complaint has been made against the child.*

Foster carer<sup>131</sup>

Others have echoed these concerns and called for better vocational training and remuneration for foster carers, reflecting the importance of their role:

*Foster carers are incredibly important, but, in my opinion, they are not valued enough and receive inadequate support. This is especially the case since resources to local authorities have been so dramatically cut. In Coventry, many of our long-standing foster carers left to join agencies and the local authority ended up paying more than it would have if the services to in house foster carers had been improved. My opinion is that looking after a child who has been damaged in some way is an important role and indeed it should be considered a profession. This would imply a significant level of training - probably to degree equivalent - and a proper salary to reflect the importance of the role. Again, there would be a cost implication, but I believe this would be an investment.*

Deputy head of Looked After Children Education Service, recently retired<sup>132</sup>

### **3.1.6 Residential care**

Evidence received by the review about children’s residential care offers a mixed picture. The most encouraging evidence has come from parents and residential care providers, and has concerned specialist residential settings, some with educational provision included. These have been found by some respondents to be effective in meeting the complex needs of some children. However other submissions have suggested that staff in children’s residential care homes often do not have the right qualities and skills, and are not well enough trained and supported to care for children and young people who may have high levels of need and are living in an institutional (rather than ‘home’) environment, which brings its own challenges.

A number of young review panel members have directly linked their experience of living in residential care with their offending behaviour:

*I feel like I was more likely to be influenced by others [than if I had not been in care]. Because of going through so much rejection and not really knowing who I was. Being so [vulnerable], it made me a target for the wrong crowd. Always doing things to fit in with others. To make other people happy from boys to girls. A lot of time I found myself in situations where I felt I had no choice.*

*Some of my placements were good. But the worst times I had [were] in children's homes. Where I was placed with other kids that had really bad behaviour problems that encouraged me to behave in a similar way to fit in.*

*My behaviour was a reaction against the staff trying to wind me up all the time, getting me mad. They said I was a risk to them because of all of that, I had up to five staff. This made me feel angry and I reacted more...*

Some young people have spoken to the review about being unhappy in children's residential care due to feelings of isolation; negative peer influence from other children in the home; a chaotic atmosphere and lack of individual attention from staff, including support with homework; and the institutional nature of homes with offices, posters and rules, which stops them feeling like 'home'. This is a problem which is hard to address, but it may be exacerbated by the fact that residential care is often treated as a last resort for children who have 'failed' to get fostered (and care itself may be regarded as a failure of being able to stay with one's own family). There is accordingly a second class status to residential care which can be reflected in the fabric of the premises, the staff status and conditions of service, and is stigmatising for the children who live there. Some young people even likened children's homes to being in custody.

Some respondents have spoken of poor working conditions and high staff turnover in children's care homes, which are not conducive to children developing stable, positive relationships with their carers. A former adolescent care worker commented:<sup>133</sup>

*Features of the care system that will increase offending are the lack of professional training that staff have. NVQ level 3 is inadequate to address behaviours exhibited. Also shift patterns and low pay in this sector ensure that staff do not consistently confront challenging behaviour because they are with that [young person], probably lone working for 24hrs. It is not unusual for some staff to be on cover for up to 3 days between different homes...*

*Management is remote and monitors what is going on in the home from a distance. Staff turnover is extremely high; in the time I was employed there for a period of eighteen months over twenty staff left. The [young people] do not have a vested interest in making friendships with staff, because they will eventually leave... Rules and boundaries are set and routinely ignored depending on who is on shift, because staff may want a quiet shift as they have another job to go to in the morning, this is not unusual as they do not earn enough to provide a living.*

This respondent went on to describe worrying challenges to communication between children and care staff:

*All the conversations with the [young people] have to be recorded, one [young person] when he realised that his conversations were recorded stopped having conversations with all staff. Sometimes staff will not enter into conversations because they do not want to write pages of notes particularly if it is near bedtime.*



The Association of Child Psychotherapists notes the negative impact that some protocols can have:

*Carers...report that they are unable to intervene as they once would, to help prevent young people engaging in crime and risk taking behaviours. For example, youth workers who once would have driven round the streets looking for a young person to bring them home if they absconded at night are totally reliant on the police and are now following protocols which don't allow them to spend time on their own with a young person outside of the care home.*<sup>134</sup>

Practitioners have echoed the concerns raised by young people about negative peer influence from other young people in residential care (Staines ,4.2, p.14). One respondent commented:<sup>135</sup>

*Essentially no one individual is rooting for a child in care and putting in the extreme effort that a parent will make. So where there is a vacuum where a parent should be, it will invariably be filled by a peer group. Peer pressure becomes the main force in their life – and unfortunately the peer groups will probably be other children lacking love, boundaries and a strict moral code.*

One adoptive parent spoke of her experience when her 14 year old son recently returned to the care of the local authority because of his challenging behaviour:<sup>136</sup>

*My experience of foster care and children's homes in the state sector (run by Local Authority) shows a lack of experienced and trained staff, cuts to funding so offering 1:1 support is impossible and a lack of good facilities. Children are 'looked after' by a large number of different people in children's homes and therefore relationships are difficult to build and maintain... My son's last care home had five very challenging boys as residents and often they were supervised by two or three staff members. If one boy wanted to do something positive, often they were unable to as it would leave the other staff shorthanded.*

This respondent had a better experience with privately run, specialist residential care:

*[My son] is now living in a privately run home ...who specialise in young children with complex needs, challenging behaviour and criminality. They have an alternative education setting/school within their group so even his education is supported by appropriately trained and experienced staff. It has taken me a year to secure him this appropriate care and I am now hopeful they can begin to put into place the support he has been crying out for.*

She considers this model of “private companies who run children’s homes alongside education” to be “the most effective in reducing the chances a child will offend” due to the ‘consistent approach to discipline, psychological support and emotional literacy...reducing the chance of them engaging in inappropriate or criminal behaviour.’”

Other respondents told the review of the important role that can be played by residential therapeutic placements, including as a temporary measure to prepare for children to return home. A secure children's home manager argued for "[a]n increase in the amount of residential therapeutic placements for children and also for parents and children to attend – so that families can be supported and children can make successful returns home after intensive therapy".<sup>137</sup>

However some concerns have been expressed about the availability of high quality therapeutic care. One Looked After Children Education Service manager commented:

*Placing children in high cost provision with therapy does not seem to guarantee results. The quality of that care and therapeutic intervention seems to be very varied and I am not convinced that commissioners are adequately able to quality assure what is being purchased... As soon as a child is placed in a residential scenario, they are at increased risk of 'offending'.<sup>138</sup>*

In summary, it appears there are intrinsic challenges associated with residential children's care. These include the fact that it is treated as a last resort, and may feel like a failure for children who are placed there. The institutional nature of the physical environment, as well as rules under which homes operate mean that some young people have likened it to prison. Some have felt it to be a punitive environment, describing practices such as 'stripping rooms'. Perhaps most importantly, the work shifts of care workers mean that it cannot entirely replicate a family environment. There is also the challenge of negative peer influence, where a number of children and young people who may have complex needs, and who may experience a lack of supervision or individual attention, are placed together.

Nonetheless, it is clear from some submissions by parents and residential care home managers that specialist homes that take a therapeutic approach can be positive and can provide the best environment for some young people at a given time in their lives. We conclude that what is most important is the young person's ability to participate in making a decision about where they should live, whether their placement is close to home, and the quality of care that they receive. Crucially, in order to protect children in care from criminalisation, residential children's homes must have active protocols with their local police force and their staff must have the necessary training and support to allow them to support children's social development and manage challenging behaviour without involving the police.

### **3.1.7 Improving carers' skills to support children's social development and manage challenging behaviour**

Respondents to this review have made clear that the ability of carers to support children's social development and manage challenging behaviour is an essential component in protecting children in care from criminalisation. Some local authorities have prioritised training in restorative practice for care home staff, foster carers, the wider children's services workforce and the police with some successful outcomes (Staines, 5.3, p.29). This is discussed under Outcome One and examples of good practice are given in Appendix Two.

Many respondents have expounded the benefits of social pedagogy<sup>139</sup> in children's care. The review has received submissions from a number of foster carers taking part in the 'Head Heart Hands' four year pilot study, which involves delivering therapeutic care to looked after children based on the use of social pedagogy. One foster carer from Staffordshire commented that she was "seeing the clear evidence in the improved outcomes for teenagers who are cared for as part of a family or children's home using Social Pedagogy ([such as] Stepping Stones Children's home in Staffordshire)". She notes that she sees "clear evidence of the benefits of this approach in the changes and outcomes for the young people in my care".<sup>140</sup>

Restorative practice, social pedagogy and other therapeutic approaches involve treating children and young people with respect and empathy and supporting them to take responsibility for their actions. Approaches of this kind are clearly beneficial to children's social development and emotional wellbeing and should be standard practice in all settings. This requires training and support, particularly for those looking after children whose behaviour is challenging. Investment in training and support, as has been demonstrated in Leeds, Leicestershire, Norfolk and elsewhere, will have a tangible impact on protecting children against criminalisation.

### 3.2 Positive relationships with trusted adults

*Imagine if any kid has something bad happen to them in their life, but they have nobody that they can trust or they can turn to. Can't go to teachers because you've been kicked out of that many schools, they all think you're badly behaved. Can't talk to social workers because you've had too many of them, and no-one knows you. You can't talk to your family, because your family is not around. What are you supposed to do? Talk to yourself? No, so instead you go out with your friends and cause trouble.*

Young person with experience of care and the criminal justice system

*... I've had four social workers, my last one I had for about a year or something... when she first came I made her promise me, I don't want people coming into my life and then leaving me... She broke her promise...she left to go to a different, better paid job... So until I've got stability I don't think I'm going to stop [offending]..."*

Young person in care with experience of the criminal justice system, aged 15 years

Many young people told the review of their feelings of anger, isolation and powerlessness on being taken into care. Some young people did not agree with the decision to take them into care, some did not know why the decision had been made, and some did not find this out until after they left care. A number of young people told the review panel that they had never been consulted about placement moves, and that they were not told when their social worker was moving on. Young people connected the resulting feelings of anger, alienation and powerlessness with their offending behaviour. Some made a direct connection, describing how they resorted to 'acting out', which might involve assaulting care staff or damaging property, in order to force a placement move (Staines, 4.5 p.16). Even where a direct link is not made, it is clear that if young people do not feel cared for, any work to compensate for the impact of earlier trauma is unlikely to be effective.

When asked what could make a difference to help young people in care to stay out of trouble with the law, the most prominent thread through the young people's evidence is the value they place on positive relationships with trusted adults who could be relied upon to care about them, believe in them, treat them with respect and support them consistently. In many cases young people attributed their positive choices and achievements to one person who had shown them this consistent support. This was most likely to be a carer or social worker, but for some young people it was someone else such as an Independent Visitor.

Sadly, a number of children and young people told the review that they had not had such a relationship during their time in care, or that they had had a positive relationship that came to an end, leaving them without support. Young people have also spoken of superficial relationships with social workers who change frequently and spend meeting times referring to paper files and making notes. They have spoken of poor management of transitions, for example not being told when a social worker is moving on, and not having the chance to say goodbye.

Based on this evidence, the importance of children and young people developing strong relationships with their carer, social worker and other professionals from the first moment of contact with children's social care services cannot be underestimated, in order to help avoid feelings of anger and alienation building and ultimately leading to challenging behaviour that could result in criminalisation.

Such a relationship should be underpinned by understanding and respect. This should include supporting children to maintain and rebuild family relationships where this is in their best interests and accords with their wishes and feelings; involving children and young people in decisions that affect them wherever possible and, where this is not possible, explaining the decision that has been made (including the decision to take them into care) and helping young people to make sense of their circumstances. In order to achieve stability, any changes in social worker and other professionals working with young people should be kept to a minimum. Where transitions cannot be avoided, they should be managed carefully.

Many respondents told the review of the importance of positive relationships with trusted adults to the emotional wellbeing of children in care. One social worker described 'relationship based working' as follows (Submission 52):

*This is not by someone that is appointed to do this or a therapist on hand for a 10 week programme but by an adult who makes decisions for them, helps them make decisions, is in court with them, at hospital with them, picks them up when they are on the run, goes to the important events in their lives, remembers their birthday wherever they are, indeed someone who behaves like a parent.*

Many respondents suggested, however, that social workers do not spend enough time with children and young people to develop meaningful relationships:

*Young people are not supported properly because social workers are over worked, and replaced with agency workers who are not as committed.*

Foster carer<sup>141</sup>

*Some social workers rarely see the children allocated to them and certainly not meet the minimum visits that should be made to spend time with a child in the foster carer's home as a consequence the social workers only have a snap shot and no in depth understanding of that young person.*

Foster carer<sup>142</sup>

A number of young people described their distress at meeting with social workers who were constantly referring to their paper files instead of looking them in the eye and having a proper conversation. This left young people feeling that they were not cared about as an individual. As one young person put it:

*The relationships with my social workers were really poor they just wanted to tick the boxes. Never looked at me as an individual. Nobody cared!*

Young person in custody with experience of care

Social workers need to have the time, confidence and competence to build and maintain strong, consistent relationships with children in care and to do direct work to support children and young people's wellbeing. The government's 'drive to overhaul social work education and training' and its commitment to a 'radical shift towards a practice-focused system',<sup>143</sup> including the publication of new standards for social work supervisors and leaders<sup>144</sup> and child and family social workers<sup>145</sup>, are welcome developments which should support social workers in building confidence and competence to build strong relationships with children in care. Graduates from the Frontline qualification programme in England told the review of the value they placed on relationship-based working, both in terms of job satisfaction and outcomes for children and young people.<sup>146</sup> High standards in recruitment, education and training should apply to social workers across the board.

Strong relationships can only be built if they last over time. However, many young people have told the review that their social worker has changed frequently throughout their time in care, leaving them feeling unsupported (Staines, 4.6, p.17). Every effort should be made for children and young people to retain the same social worker wherever possible, regardless of changes in their care status, age, placement type or other circumstances. Where staff move on, the transition must be very carefully managed.

A secure children's home manager directly connected multiple changes in social worker with children's offending behaviour, commenting:

*[C]urrently local authorities have different teams set up for children that are in different processes of the care system – i.e. Duty/emergency, permanency, over 16, etc – these means children often change social worker multiple times – a fact which often leads to breakdown of placement and 'acting out' – leading to more challenging behaviour.<sup>147</sup>*

These comments were echoed by a social worker who told the review (Submission 52):

*There are many system based issues that work against relationship based care. For example systems that fragment relationships, the movement of a young person between teams and therefore social workers because each has a specialism. A crisis team, to a Looked After Children team and then to a 16+ or leaving care team.*

*...To the movement above add in teachers, SENCO's, Youth Justice workers, drug workers, personal advisors, housing, mentors, etc, etc. These are the features of the care system that significantly hinder the process of ensuring that the young person reaches maturity and independence without becoming an offender. No other child has to cope with such complexities of relationships and these are arguably those worst placed to deal with all of this.*

Recent surveys show high proportions of social workers thinking of leaving. Structural changes might help to reduce turnover, such as reduced caseloads, management progression without giving up face to face work and strong programmes for continuing professional development. Some local authorities are working to reduce changes of social worker by maintaining a strong focus on workforce confidence and stability and adapting working structures. Leeds has put in place a dedicated Children's Workforce Development Team, responsible for ensuring that the key behaviours that guide the approach in Leeds underpin practice and professional development across the children's workforce: namely, listening to the voices of children and young people; working restoratively with families; and using outcomes based accountability to measure what difference has been made. The team provides a mixture of statutory and tailored training.<sup>148</sup>

### **3.3 Information for children about how they should expect to be looked after and access to independent advocacy**

A number of young people have told the review that they believe they did not get what they were entitled to while they were in care, such as financial support, in some cases because they believed their foster carers did not use the allowances they were given to buy essential items for them. Some connected a lack of financial support to offending. One young person said, for example, that she stole a deodorant because she did not have money to buy toiletries.<sup>149</sup> Some young people said they did not know what they should expect from their carers and social workers. Young people also spoke of a lack of confidence in complaints processes. This led to feelings of powerlessness, anger and alienation which young people connected with their offending behaviour. YOI-based social workers told the review that local authorities routinely stopped pocket money for children in custody.<sup>150</sup> It is essential that children in care should know what to expect from their carers and social workers, and that they should be confident that, if they complain that they are not being fairly treated, they will be listened to and something will be done.

### **3.4 Peer mentors and role models**

*I never had any positive role models in my life growing up. I never felt like I had any support around me, I never had anyone in my life that I could turn to in times of need.*

Young person with experience of care and the criminal justice system;  
taken into care aged 20 months

There was a consensus among young people giving evidence to the review that peer mentors, who have experience of growing up in care, could play a crucial role in offering advice and support and providing positive role models.

Many respondents have discussed the need to support children in care to build positive aspirations for their future and have pointed out the benefits that positive role models can offer. Children and young people with experience of care and the criminal justice system have told the review that this is a role that can most usefully be played by people who have been through the care system, who can offer a credible voice which children in care are more likely to listen to.

An adult reflecting on her upbringing in care commented:

*It would ...make sense to have older care leavers mentoring younger ones, so they both have a bit of help and company and something resembling family. Loneliness is one of the worst outcomes of a life in the care system.*<sup>151</sup>

Some young people in custody from minority ethnic backgrounds, who had experience of care, felt they would have been better supported by care leavers:

*Mentors who have been through what we have been through and actually care about us as individuals and who will stick with us and show us different options to crime.*

The review has heard of good practice such as the Royal Borough of Kensington & Chelsea's peer mentoring programme in the community, IMPACT, which supports children in care aged 10 to 14 years to build self confidence, make friends and learn new skills.<sup>152</sup> The Care Leavers' Association has developed a peer mentoring programme called Foundations, through which care leavers with experience of the criminal justice system provide support to care leavers in custody.<sup>153</sup>

### **3.5 Support to maintain and rebuild family relationships**

*It's important for children and young people to feel like they belong somewhere. If one has no place to belong, then one becomes lost. And once you're lost you become a target.*

Young person with experience of care and the criminal justice system

*...simply replacing the family of origin with a new 'forever family' no matter how good that family is not necessarily the answer nor will it always achieve the desired result. Work with the child about their own family, their care story, their previous life, being straight with them about the past and their life pre-care has to be a must so they understand it and can make better choices.*

Independent social worker<sup>154</sup>

Where children are removed from their birth families, respondents tend to agree that rebuilding and maintaining their family relationships is important, provided that this is what the young person wants, and that it is safe and in the young person's best interests. This is another reason why being placed close to home is usually beneficial. Some young people have told the review about the importance of older siblings as positive role models, or younger siblings as someone they can teach and show a good example to, promoting their own self-esteem. Young people with experience of care who have become parents themselves have explained how this has directly

motivated them to make positive choices in their lives and stay out of trouble, in order to be good parents to their own children.

The potential for birth families to provide positive role models was emphasised by one foster carer:

*[Looked after children] need lots of positive role models in their lives in every area. Foster carers and their friends and families are key to this but if birth families can be encouraged to reinforce positive behaviour and attitudes this helps as children often still have a strong loyalty to their own families.*<sup>155</sup>

Even where families don't provide good role models, young people may still look to them for support once they leave care. It is important that children in care should be supported to make these relationships as strong and positive as possible, where this is what the child or young person wants, and where it is safe and in their best interests.

### **3.6 Education and other constructive activities – having opportunities to thrive and building aspirations**

The link between engagement in education and offending by looked after children has been strongly established by research (McAra and McVie 2010; see Staines, 3.7, p.11). The ability of children and young people in care to thrive in education is influenced by their early experiences as well as the treatment they receive while in care, including placement moves which may be particularly disruptive of learning.

It is essential that mainstream schools and alternative and specialist education providers should be able to meet the needs of all children and young people in care and support them to learn. Review submissions suggest that the introduction of virtual school heads and Pupil Premiums have led to important improvements, with better educational outcomes for looked after children. However there is a consensus that more could be done to increase the capacity of mainstream schools to meet the needs of a minority of looked after children and young people who may present challenges, and some have argued that alternative provision is not of a consistently high quality.

Many respondents, including children and young people, have argued that it would be beneficial for all teachers to learn about the underlying causes and additional needs, such as attachment disorder, that can lead some looked after children to struggle in education or to present challenging behaviour, as part of their core teacher training. There is also room for improvement in alternative provision, including raising aspirations for looked after children's achievements.

Respondents have made clear that some children in care may need creative, flexible and consistent support to engage with education, including opportunities to engage in constructive activities outside the school curriculum.



### 3.6.1 Positive developments

There is some recognition amongst respondents (such as Ofsted<sup>156</sup>) that there have been improvements since the introduction of virtual school heads, although the gap in attainment between children in care and in the general population remains wide.<sup>157</sup> Recent research by the Rees Centre for Research in Fostering and Education found, however, that educational outcomes for children in care were better than those for children on the edge of care who remained with their families.<sup>158</sup>

Respondents have noted that the Pupil Premium and support from Looked After Children Education Services can have a positive impact. A recently retired head of a Looked After Children Education Service commented:

*Most schools go out of their way to help their [looked after children] and use the Pupil Premium wisely.*<sup>159</sup>

This respondent felt that the picture had improved a great deal since she first joined the service 13 years previously, with teachers having improved knowledge of the factors that influence attainment by looked after children, the lives they may have led before entering care, or their likely outcomes. This view was not shared by all, with some foster carers and adoptive parents reporting that they struggled with schools that they felt were not meeting their children's needs and in particular were not using the Pupil Premium to their benefit.

### 3.6.2 Barriers to learning that are outside schools' control

Some respondents pointed out the limitations on what schools can achieve for looked after children. For example, one retired magistrate who is now a school governor commented:<sup>160</sup>

*Schools try to give priority to 'looked after' children in a number of ways but they cannot create the kind of supportive home environment which every child needs in order to thrive. The school may be able to offer counselling but this may not be enough to help a child who is suffering from being in care. The end result of all this may well be that children in care become increasingly angry and confrontational and unwilling to engage in education. They may look to peer group for support and this in turn may leave them open to the risk of offending behaviour e.g. getting involved with gangs, drugs etc.*

Respondents are in agreement as to the high proportion of children in care with speech, language and communication needs, and the high prevalence of mental health needs, both of which can act as barriers to education (Staines, 3.6, p.10; 3, p.7). There is a general recognition that it is essential to identify those needs at an early stage and provide timely access to effective services in order to support children in care to learn.

Placement moves are disruptive to children's education and may exacerbate existing problems of social isolation and vulnerability to bullying. Being singled out for support with Special Educational Needs (SEN) is another potential difficulty. Some respondents have argued that greater flexibility is needed in the provision of SEN support, so that children do not feel unnecessarily singled out, and are not put off accessing support for this reason.

### 3.6.3 Mainstream / specialist education

There are common threads in respondents' descriptions of obstacles to children accessing education, and conflicting views about how to overcome these effectively. There is a range of opinions about the best educational setting for children in care. Some describe the benefits of mainstream education, which include being in a positive social environment with exposure to a range of peers, working within the curriculum and thereby avoiding the limitations on future opportunities that can come from working outside the curriculum in a specialist setting.

Respondents point out that early life trauma can manifest itself in challenging behaviour which, in turn, can put children in care at greater risk of exclusion from mainstream education (Staines, 3.6, p.10). Some argue that there is a need for greater awareness amongst school heads and teachers of the potential impact of attachment disorders and post traumatic stress disorder on behaviour, so that they can more effectively meet the needs of looked after children in school and respond appropriately to challenging behaviour without resorting to exclusions. Some have commented that training on attachment disorder is not a core part of teacher training. A number of respondents argue that more widespread use of restorative practice in schools would be beneficial for looked after children, with one young review panel member commenting, "I was just grateful not to get arrested."

A Looked After Children Education Service manager commented:

*Strong [Looked After Children Education Service] which has an ethos built on relationships and long-term support is what makes the most difference. It is also important to take things individual by individual. One at a time...The relational approach needs to be balanced and backed up by strong leadership, clear advocacy and close monitoring of key performance measures to make sure services are making a difference.*<sup>161</sup>

The Association of Child Psychotherapists comments that:

*...the diminishing of the personal tutor role in schools has had a significant impact on young people who may be likely to offend. Having a link person who can be an attachment figure in a consistent environment such as school can be key in picking up potentially offending and destructive behaviours... Many young people are reporting that school feels less safe, more demanding and that they are encouraged to leave if their grades are low, as they may bring the overall school targets down.*<sup>162</sup>

An adoptive mother described her difficult experiences in relation to mainstream education for her sons:

*I gave my older son's secondary deputy head details on how to approach teaching attachment disordered children and he dismissed it as just for their [special educational needs] department, my sons' schools also ignored the details of training days for teachers on attachment disorder. It wasn't down to me as a mother to point out training to schools, nobody cared and the children were just a nuisance ...My children left school with minimal qualifications my older son has been in and out of work with little respect for authority and my younger son is on benefits – they are 22 and 24. They are getting better but it is a long haul journey...*<sup>163</sup>

This respondent argued that primary and secondary schools should have “proper Nurture Groups”<sup>164</sup> and suggests that teacher training establishments should include attachment in their SEN training and classroom management training. She cites as an example of good practice Alderman Knight School in Tewkesbury and Coopers Edge Nurture Room at Coopers Edge School in Gloucester. She adds:

*I cannot emphasize enough how stressful and disappointed the school years were and how painful it is to see my [adopted] nephews – 14, 16 and 17 go through the same nightmare.*

A retired police officer working as an Education Support Worker in a primary school commented that greater flexibility should be applied to allow looked after children to flourish in school, given the impact that early trauma is known to have on children’s development:

*We cannot expect them to just rock up and fit in like a jig saw piece... Our expectations should be high, but so should the support given and we should not be so strict in the time scales of our expectations. Maybe if a child is 7 and needs to be in a year 1 class – then this is how things should be.*<sup>165</sup>

Some respondents have argued that education in a specialist setting is more likely to benefit children in care than a mainstream school, removing feelings amongst children in care of being negatively differentiated from their peers,<sup>166</sup> and offering a more effective way to learn. An adoptive mother whose son returned to care aged 14 due to his challenging behaviour argued that the best educational placement for children like him was a private educational setting attached to a specialist children’s home, due to the consistency of disciplinary approaches and knowledge of the child’s needs and characteristics that could be shared more effectively.<sup>167</sup>

However concerns about this kind of approach have been raised by others, such as this magistrate who raised safeguarding concerns:

*Such children are often educated at alternative provision units on site (many have been excluded from mainstream schools), which may be entirely appropriate, but does mean that it can seem as if the only independent adults the youths ever see are magistrates which some of them see with increasing regularity...*

*Children at PRUs and other alternative education provisions can be targeted by adults with ill intent, and concern raised at a local PRU about youths being collected at lunchtime by non-family adults in cars, which raised great concern for safeguarding, was passed on to the police and led to a higher importance being given to such matters which had been logged as simply truancing.*<sup>168</sup>

The SpringBoard Bursary Foundation, a social mobility charity, informed the review about the opportunities they offer to children from deprived areas to attend independent and state boarding schools on a fully funded bursary. They have experienced good results for the eight

looked after children they have placed in schools during their first two years. They have also successfully supported one of those children, now a care leaver, to challenge a decision made by their local authority preventing care leavers from returning to their foster placements during term-times and holidays while at university.<sup>169</sup>

### 3.6.4 Raising aspirations and tackling stigma

The central importance of raising the aspirations of children in care about their own future, as well as the aspirations of the carers and professionals around them, is a key theme running through submissions to the review. Many also discussed the need to challenge the stigma that can be associated with being in care. A former head teacher with experience of working with looked after children told the review:<sup>170</sup>

*It's not simply about raising aspirations – it's about awakening them, then raising and supporting them. What are the links between children's services, the virtual head and colleges, HE institutions, businesses and STEM? (Science, Technology, Engineering and Maths). There are plenty of organisations very willing to be involved but are they used?*

*It is essential that children and young people (and carers) are engaged from an early age in order for them to have realistic options at transition stages in life. Do not wait until young people reach transitions stages such as 'leaving care'.*

This respondent queried whether having a 'critical friend' to assist with the development of education provision for looked after children would be more useful than Ofsted inspection.

Some respondents commented that pupil education planning (PEP) meetings could be used in a more positive way to empower and inspire children, focussing on positive achievement rather than on behavioural problems.

An adult reflecting on his time in care some decades ago commented:

*My experience of care overall was that I was labelled or felt labelled by society as I knew I was 'different'. I didn't have a stable environment, home or schooling so this just made me more upset and feeling I had to prove myself in different ways as if to say 'look everyone it's me, I am here' this is my place in society. Maybe there can be some way of getting across to the public that yes we may be damaged but we just want to be accepted.*<sup>171</sup>

This point was reinforced by an independent social worker and psychotherapist who told the review:<sup>172</sup>

*Being in care is in itself a labelling process and this can serve to undermine confidence and self-esteem. Young people often feel that they have failed in some way, that there is something intrinsically wrong with them. It is a short step from feeling bad to doing something bad.*

A Looked After Children Education Service manager described how the commentary at national level can have an impact:

*The national mood music is consistently negative. Ofsted often quote how awful children in care do at school... We seldom, if ever, hear the positive stories. This needs to change. What we do locally is to invest personally in the lives of young people and help them to succeed. Why doesn't every MP personally invest in a young person's life...and share that success story with the country? Leadership by example is far more powerful than leadership by direction.*<sup>173</sup>

Some respondents spoke about the negative impact of treating children in care as victims. As this Leaving Care Personal Adviser put it:

*...stop treating children in care and care leavers as victims it does not foster a positive self image or self-esteem or do them any good.*<sup>174</sup>

A number of respondents emphasised the importance of involving carers in the education of looked after children. One commented:

*Some foster carers have not been successful academically and they need extra help from their support workers, to actively encourage the young people in their care.*<sup>175</sup>

### **3.6.5 Developing interests and aptitudes**

One crucial way for any child or young person to develop aspirations and prepare for the future is to find out their own interests and aptitudes and to be supported in developing them (Staines, 5.1, p.27). Schools can play an important part in supporting children in care to do this, as well as children's services and youth services. One young review panel member commented:

*If I'd channelled energy at a younger age into something positive [it would have helped me to stay out of trouble].*

Young people in custody from minority ethnic backgrounds with experience of care suggested that access to more educational opportunities would be beneficial:

*More opportunities to experience different things that could inspire us.*

*Being exposed to different routes in education and career options that interest us.*

Pet-Xi Training told the review:

*Youth services need to offer high quality out of hours opportunities – not simply be a service which 'babysits' young adults to keep them off the streets. Theatre and dance groups are great at providing a 'community element' which opens up new and positive peer groups. ...It is essential to get specialist and early interventions appropriate to different learning styles. Apprenticeships are good here.*<sup>176</sup>

Core Assets Transformation and Rehabilitation argue:<sup>177</sup>

*The emphasis of most interventions tends to relate to addressing a young person's deficits, rather than working with and building on their assets...*

They recommend “a structured coaching and a brokerage model to inspire and assist young people to develop their internal and external assets, whilst providing opportunities in their community to prevent social isolation and marginalisation.”

### **3.6.6 Conclusions**

It is of course essential that children and young people in care should have the support they need to thrive in education and develop their own interests and aspirations both within and outside the school curriculum. These are the building blocks for the confidence and skills that we all need to fulfil our potential. For some children in care, this requires additional support, sensitively provided, and the skills and capacity to support children's social development and respond to challenging behaviour without excluding children from school wherever possible. The increasing use of restorative practice in schools may help to achieve this, and additional training for teachers on the underlying causes that can be associated with challenging behaviour in school would also be helpful.

### **3.7 Mental health and emotional wellbeing – a whole system approach**

37% of looked after children have emotional and behavioural health that is considered to be a cause for concern, and a further 13% are considered borderline. The remaining half is considered to have 'normal' emotional and behavioural health.<sup>178</sup> Boys in young offender institutions who report that they are, or have been, in local authority care are more than twice as likely as other boys in custody to report that they have emotional or mental health problems (37% compared with 16%).<sup>179</sup>

Submissions to the review concerning the lack of access to mental health services for children and young people in care reflect recent public debate concerning inadequate access to mental health services for children and young people generally in England and Wales. Many respondents, including the NSPCC, argue that there is a need for a whole system approach to the mental health of looked after children and young people in care, rather than seeing this as the responsibility solely of health services.<sup>180</sup> This means that interventions should be made by social workers and teachers as appropriate. The NSPCC has argued that children should receive a full mental health assessment upon entering the care system. Many respondents have discussed the benefits of Multi-Systemic Therapy for children and families.<sup>181</sup> (Staines, 5.1, p.27)

Many submissions have referred to difficulties accessing mental health services when they are needed and have described a care system struggling to meet the therapeutic and sometimes complex needs of children (Staines, 4.8, p.19). The government's recent announcement of additional funding for Child and Adolescent Mental Health Services (CAMHS) is welcome, but concerns remain as to whether the investment will be enough and delivered quickly enough to plug the gap.

The Association of Child Psychotherapists argues that “a more holistic approach to health [assessment is] needed to reduce the risk of offending, where mental health is linked to physical health and wellbeing and professional [health] networks communicate with each other.”<sup>182</sup> They cite an example of good practice in which they are involved. Alison Roy, professional lead for child psychotherapy in the Sussex Partnership Trust and media and communications lead for the Association of Child Psychotherapists explains:

*I am involved in a relatively new service for adopted young people with mental health difficulties, called AdCAMHS. This is a jointly commissioned but also joint run service, where multi agency consultation and discussion starts at the beginning with the referral of the child or [young person], so that working together is central to supporting each individual and their family, right at the start.*

Many respondents argue that access to specialist mental health services when they are needed is inadequate, with thresholds to access Child and Adolescent Mental Health Services becoming higher and waiting lists being too long even where thresholds are met (Staines, 4.8, p.19). One foster carer, who commented that therapy should be offered as soon as children come into care, commented:

*Foster carers do not have the parental responsibility to get the educational and [CAMHS] support that the child needs. In my area a referral to [CAMHS] takes 18 months by which time a foster child is often in a terrible state.*<sup>183</sup>

Another foster carer commented:<sup>184</sup>

*Referrals to CAMHS take months and this is not helpful in supporting a young person in crisis and/or dealing with anger management issues.*

She suggested that social workers are not able to step in to deal effectively with behaviour problems:

*Social workers will tell a young person their feelings and then validate the young person's behaviour instead of acknowledging the young person's feelings and then taking action to help the young person address their behaviour.*

This foster carer described one example:

*I asked for a young person to be referred to CAMHS in March but this has been ignored and recently this young person has attacked another taking her victim to the ground (tarmac car park) in a head lock and using her hair repeatedly banging her head on the ground. She had to be pulled off her victim by a strong adult male in order to stop her.*

An independent social worker and psychotherapist commented:

*In my experience, the Children and Adolescent Mental Health Services offer support to young people who are in critical need and not to those 'troubled' young people who are in the care system and unless a separate or linked therapeutic service is offered then these young people will continue to be disadvantaged with all the implications for them and for society.*<sup>185</sup>

A number of foster carers maintain that they have to fight for specialist services for the young people in their care. One told the review (Submission 203):

*I am a foster carer of an eight year old that has been in the care system for four years. In that four years this child has experienced five failed placements, been split from their three other siblings and through-out this experience has received no therapeutic intervention. They see social workers as the enemy as each time they have seen a social worker, they take this child away from home or family, equally the social worker has changed over time so what should be an [anchor] for this child (as they do have parental responsibility) and should be there for her, [unfortunately] they are often not.*

*This child does not know why they are in foster care and I have been advised that life story work needs to be carried out by a clinical [psychologist] that is not the only reason this child needs this intervention as they were damaged when they came into care and that has not been addressed and their experience in care has exacerbated these issues.*

*There is a lot of rhetoric but no solid action to help this child. I have been very pro-active but the brick wall is there and it is all around funding, everyone agrees that this child needs psychological intervention but CAMHS are very busy so who will do it? This child at eight years old has been failed by the system and it is a fight to get that recognised and rectified. I feel that people forget that these children are the victims not the perpetrators.*

A Leaving Care Personal Adviser discusses the potential benefits of a creative approach to therapeutic support:

*It could be argued that local authorities are too rigid and too bureaucratic. Maybe they are not creative enough in their endeavours to help children in care heal from their traumatic experiences. Simple activities require a lot of red tape. Perhaps local authorities could learn from therapeutic environments that are used in substance misuse treatment centres such as group peer mentoring. Perhaps they could utilise the experiences of former children in care. Those who are now adults could be used as mentors; specifically those who have been through the care and criminal justice system and come out the other side into brighter futures... There is a priceless, therapeutic value in people identifying with individuals who hold similar experiences.<sup>186</sup>*

Without effective mental health support and mental wellbeing, engagement in education is severely hampered. One recently retired head of a Looked After Children Education Service described the fundamental importance of a therapeutic approach:<sup>187</sup>

*For many years, the focus on improving the outcomes for looked after children has been on schools. This has been positive and should continue. However, it is like taking a person with two broken legs and repairing only one of them. He may be able to hobble around, but he will never walk properly unless both are fixed. There is no amount of educational support that can address a young person's deep-seated anger and confusion, or the effects of attachment disorder or long-term traumatic stress. These issues need to be addressed from day one and, unless they are properly resourced, we will continue to spend huge sums of money mopping up the consequences as these young people go into adulthood.*



A manager of a secure children's home commented that there is a need for "[a]n increase in the amount of Children and Adolescent Mental health services in place – as arguably all children in care have attachment issues that need mental health support but a very small percentage receive support in the community – which is notoriously hard to access currently in the community."<sup>188</sup>

Some local authorities have found ways around this. CAMHS Children in Care (3Cs) in Surrey are a multi-disciplinary team who deliver specialist skills and training to provide a dedicated CAMHS service for children in care aged 0-18 and their carers. The aim is to provide the best possible service to Surrey's children and young people in care. To facilitate this, the service offers support and guidance to the carers and to the professional network caring for the child or young person in order to promote placement stability, enduring emotional and psychological wellbeing and the opportunity for children and young people to reach their fullest potential in adulthood.<sup>189</sup>

A former social worker with 20 years' experience as a youth magistrate commented:

*Therapeutic interventions for children in residential placements should be integral and compulsory in my view. These are the children and youths most at risk and most in need of therapy and care.*<sup>190</sup>

One experienced social worker, noting the difficulties with attachments that children entering the care system are likely to have experienced, even when they entered care as babies, told the review:

*Social Services and health often argue with each other as to who is financially responsible for providing any therapy or counselling for the child and in my experience few and far between children are provided with appropriate support at an early age. On the occasions it does happen, further therapy is not often provided at other times in the child's lives when behaviour is showing there is a need for it.*<sup>191</sup>

A retired mental health nurse who grew up in care described his impressions of the care system today, based on his experience as a health professional:<sup>192</sup>

*Too much attention in my opinion is still placed upon the child 'being bad!' and little effort in my experience is to use the wider family network therapeutically...*

Some respondents have told the review about the links between drug and alcohol use and offending by looked after children. One social work professional commented:<sup>193</sup>

*Crime is often linked to drug misuse, which is often a sign of low self esteem.*

An independent social worker and psychotherapist told the review:

*The life experiences of young people in care can lead them to experience depression and this often goes untreated and as a consequence, may result in self-medicating through the misuse of drugs and alcohol. In my experience, funding these addictions, which only*

*serve to intensify depressive symptoms, often leads to offending... This comes back to my original point, that all young people who become looked after, need an opportunity to receive therapeutic support at some level and at different stages in their care career, so that they can begin to resolve what has happened to them and why, so that at the very least they have a clear narrative about their past.*<sup>194</sup>

The education select committee has recommended that children in care should have priority access to mental health assessments by specialist practitioners, with subsequent treatment being based on clinical need.<sup>195</sup> This reflects the views of many respondents to the review.

Based on the above findings, we make the following recommendations:

## **Recommendation 4 – Strengthen local authority leadership**

We recommend that the following measures be introduced to strengthen local authority leadership to protect looked after children from unnecessary criminalisation. All these measures could be implemented, in England, by amendments to the Children Act 1989 guidance and regulations (that are next to be reviewed in April 2017), and in Wales by amendments to the codes of practice issued on the exercise of social services functions and partnership arrangements in relation to the Social Services and Well-being (Wales) Act 2014:

4.1 Statutory guidance must assert the important role of the local authority in tackling the stigma which children in care can encounter, as identified by research and in this review. The guidance must make clear that local authorities should raise awareness amongst local partner agencies and others about the needs, circumstances and characteristics of looked after children and challenge negative stereotypes. This is critical to enabling children to achieve the ‘wide range of opportunities to develop their talents and skills in order to have an enjoyable childhood and successful adult life’ for example, as referred to in the Children Act 1989 guidance and regulations, and protecting them from needless involvement in the criminal justice system.

4.2 Statutory guidance must -

- (a) Require local authorities to hold regular senior-level, strategic meetings with their multi-agency partners with the common aim of improving outcomes for looked after children, including protecting them from criminalisation. This must provide a commitment to share information, promote good practice and make joint decisions about matters affecting looked after children locally.
- (b) Describe a range of activities that local authorities and their partners must routinely carry out in fulfilment of their responsibilities for parenting, including a requirement that:
  - (i) Directors of children’s or social services must receive regular, accurate information about the progress of all children from entry into care and specifically the involvement in the criminal justice system of looked after children for whom they are responsible.

Directors of children's or social services should summarise this information as part of their regular reporting to lead members for children's services.

- (ii) Directors of children's or social services must ensure that their department has a close working relationship, including fast and effective channels of communication, with local criminal justice agencies (youth justice services, the police, the Crown Prosecution Service, the courts and secure establishments) with the common aim of ensuring that looked after children are protected from unnecessary criminalisation wherever possible and, where this is not possible, that they are well supported and fairly treated within the criminal justice system. This must include ensuring that their department informs local criminal justice agencies promptly when they are working with a looked after child, provides information about the child's circumstances and any vulnerabilities, and that the department provides the necessary support to that child to help achieve diversion from the criminal justice system where possible and, where this is not possible, to support the child throughout the criminal justice process.

#### 4.3 Local authorities must be required to:

- (a) Recruit, train and support young adults who have experience of the care system to act as peer mentors and positive role models to children and young people in care. This reflects a clear consensus among young people who told this review that this kind of support would have given them valuable emotional and practical support and helped them to make better choices.
- (b) Carry out a rigorous review when any looked after child experiences three or more placement moves within 12 months and where any placement move arises following a police call-out in relation to that child's behaviour, in order to learn why this happened and how it can be avoided in future, and that the results of such reviews are regularly reported to the lead members for children's or social services.

4.4 All bodies in Wales whom we consulted expressed concern about the high number of out of authority placements there by English authorities. The evidence suggests that many of these placements lack effective planning and information sharing, and that these factors can contribute to the criminalisation of looked after children. We therefore recommend that English statutory guidance must be amended to incorporate the requirements specified in the code of practice (no. 6) issued in relation to the Social Services and Well-being (Wales) Act 2014.

### **Recommendation 5 – Improve joint working between children's social care and social services, and criminal justice agencies**

We recommend that the following measures must be implemented in England to improve joint working for the protection of children in care from needless criminalisation. This can be done through amendments to Section 8 of Volume 2 of the Children Act 1989 guidance and regulations when it is next reviewed in April 2017:

- 5.1 Local authorities must hold a regular, formal panel meeting with the police force and other partners to review the circumstances of each looked after child at the first indication that they may have begun to offend, so that early, purposeful diversion from the criminal justice system can be put in place. This should include appropriate sharing of information and joint decision making wherever possible.
- 5.2 Local authorities must put in place resources, including training and support through practitioner forums, to ensure that carers in all placements are able to support children's social development and to respond to challenging behaviour without involving the police formally. This has been done successfully in some areas through the use of restorative practice.<sup>196</sup>
- 5.3 All children's homes, whether independent or publicly run, must be required to develop and implement a protocol with their local police force, in consultation with children's social care services, to minimise formal police involvement in managing children's behaviour. The protocol's operation must be monitored by the director of children's or social services and the lead member for children's services.
- 5.4 Local authorities must always notify criminal justice agencies promptly (youth justice services, the police, the Crown Prosecution Service, the courts, and custodial establishments) when a looked after child comes into contact with the criminal justice system.
- 5.5 Where a looked after child is arrested, the local authority must ensure within a reasonable time that the child has support at the police station from an appropriate adult who knows them, who understands their role and is able to carry it out, and who has no conflict of interest in relation to the proceedings against the child.
- 5.6 Where a looked after child appears in court, it should be a requirement for the child's social worker to attend court with the child (rather than simply good practice, as currently stated at paragraph 8.41 of the guidance). Where the social worker does not know the child well, another adult must also attend who does know the child, such as a carer or family member, provided that this is safe and in the child's best interests, and in accordance with the child's wishes and feelings.
- 5.7 There must be short time limits within which information about a looked after child must be communicated to other agencies at each stage of the criminal justice process, including when a looked after child is placed in a custodial setting.
- 5.8 Resettlement planning must be completed 21 days before a looked after child's release from custody (increasing the current time limit of 10 working days) when the period of time in custody allows this. The governing governor, director or head of the secure establishment

must notify the director of children's or social services when resettlement planning has not been completed within this time period.

5.9 Every effort must be made by the local authority to facilitate family support for the child at all stages of the criminal justice process where this is safe and in the child's best interests, and in accordance with the child's wishes and feelings.

We recommend that similar measures be adopted in Wales to complement the existing codes of practice issued in respect of Parts 6, 9 and 11 of the Social Services and Well-being (Wales) Act 2014.

## **Recommendation 6 – Recognise the important role of good parenting by the state**

We recommend that each concordat on protecting looked after children from criminalisation (recommendation 1) should explicitly recognise the important role that good parenting by the state plays in protecting children and young people in care against criminalisation. This should include reinforcement of the need for local authorities to take the steps set out below:

6.1 Ensure that each child in care is treated with respect and understanding, is fully informed and engaged in matters that affect their lives, and receives consistent emotional and practical support from their primary carer and at least one other trusted adult. This may be a social worker, Independent Visitor or other professional or volunteer.

6.2 Ensure that each child in care is supported in developing and sustaining positive relationships with their family members where this is safe, in the child's best interests, and in accordance with the child's wishes and feelings.

6.3 Facilitate and support peer mentoring of children and young people in care by young adults who have experience of the care system and can act as positive role models.

6.4 Ensure that appropriate responses are made to challenging behaviour without unnecessarily involving the police. The police and youth justice services also have a role to play here.

6.5 Ensure that suitable care placements are available locally to meet local need and placement choices are made in consultation with children and young people.

6.6 Ensure that a rigorous review takes place where any child experiences three or more placement moves within 12 months, and where any placement move arises following a police call out in relation to that child's behaviour in order to learn why this happened and how it can be avoided in future and that the results of such results are regularly reported to the lead member for children's services.

6.7 Ensure that foster carers and residential care staff have sufficient training and support to promote children's social development, to respond to challenging behaviour without

inappropriately involving the police, and to improve placement stability. This has been done successfully in some areas through restorative practice.

6.8 Ensure that looked after children and young people are effectively supported to thrive in education and other constructive activities. This must include training for all teachers about the additional needs that looked after children can have, as part of their core teacher training.

6.9 In relation to the mental health and emotional wellbeing of looked after children we recommend that:

- (a) All children should be assessed by a mental health professional upon entering care;
- (b) There should be a presumption that looked after children and young people are given first priority for mental health services until they have been fully assessed, after which point priority should be determined based on clinical need. This should be an essential element of all contracts through which child and adolescent mental health services are commissioned, and monitoring the numbers of referrals and time to first assessment should be part of the contract monitoring process.

## **Outcome Four: Needs and characteristics of looked after children in minority groups are taken into account in protecting them from criminalisation**

Not enough is known about the relationship between the involvement of looked after children and young people in the criminal justice system and their ethnicity, faith, gender or disability. Particular concerns exist about the over representation in the criminal justice system of looked after children and young people who are black or from other minority ethnic backgrounds, and children and young people of Muslim faith. There are concerns about the extent to which the needs of looked after girls are addressed in the criminal justice system because they represent a very small proportion of the whole.

Children and young people with developmental and learning disabilities, learning difficulties and speech, language and communication needs are known to be over represented in care and the criminal justice system. A number of respondents to the review have argued that not enough is done to identify conditions and needs at an early stage and to ensure they are addressed so as to support children's development and protect them from criminalisation, as well as the risk of unfair treatment within the criminal justice system.

The review has received evidence of the particular needs of foreign national looked after children in protecting them from unnecessary criminalisation and its consequences, and the prosecution of victims of trafficking despite legal protections.

### **4.1 Looked after children who are black or from other minority ethnic groups**

*You are just not given a chance on the outside as a young black man - you are always judged negatively.*

Young person in custody with experience of care

Compared to those aged 10 to 17 in the general population and the looked after population in England, there is an over representation of black, Asian and ethnic minority young people in custody. While there is no published data on the numbers of looked after children in custody who are black, Asian or from another minority ethnic background nor on those of Muslim faith, our analysis of provisional outputs for the snapshot date of 3 April 2015 made available to the review by the YJB suggests an indicative figure of approximately 44% of looked after children in custody being black, Asian or from another minority ethnic background (please see notes on pages 143 - 147).<sup>197</sup> This is similar to the proportion of all children (looked after) who are black, Asian or from another ethnic group which is around 40%.<sup>198</sup>

HM Inspectorate of Prisons kindly conducted additional analysis for the review of the data they collected from surveys of children and young people in secure training centres (STCs) in 2014-15 (N=203). These weighted and quality assured figures showed that 48% of children surveyed

in STCs during 2014-15 who were black, Asian or from another minority ethnic background, reported experience of local authority care. This compared with 55% of white children, suggesting that white children in STCs were more likely to have a care background.

50% of Muslim children surveyed reported experience of local authority care, compared with 52% of children who were not Muslim.<sup>199</sup> This suggests that Muslim children and young people in STCs were slightly less likely to have a care background than other children in STCs.

Ofsted reports that black and black British children who are looked after are more likely than children of other ethnicities to live in secure units, young offender institutions or prison. As at 31 March 2014, one fifth of children placed in secure units, YOIs or prisons were black or black British, although only 7% of all looked after children were of this ethnic group. Children who are black or from another minority ethnic group are significantly more likely than white children in care to be placed in an area of the highest deprivation (40% compared with 25%) and the highest crime (39% compared with 25%).<sup>200</sup>

Some young people have told the review that they feel they have been the victims of negative stereotyping and unfair treatment by the police and children's social care services, and that their needs have not met, because of their racial background. For many, this has compounded the negative perceptions that they feel are associated with their status as looked after children and young people. Young people have spoken of the need for more peer mentors and role models from their communities to give practical and emotional support to black children and young people in care and those from other minority ethnic groups, and to help them to make better choices.

The Black Training and Enterprise Group (BTEG) carried out two focus groups for the review early in 2016. The first was conducted with a group of young men in HMPYOI Feltham and the second with a group of young women and men in the community, hosted by the Big House Theatre Company in Islington, London. All participants in both groups were from minority ethnic groups, were aged between 18 and 24, and had experience of care and the criminal justice system.

The comment quoted at the start of this section was made by a young person in HMP YOI Feltham, responding to a question about police treatment of young people from minority ethnic groups. It reflects the comments of other young people taking part in these focus groups and makes clear the continuing perceptions of some black and minority ethnic young people that they are treated unfairly as a result of their ethnicity.

As Dr Staines has pointed out in her literature review, the interplay between ethnicity, looked after status and offending behaviour is a significantly neglected area of research. Yet these comments from young people, and the statistics, show that this is an area where further research is needed in order to gain a clear understanding of the experiences of black and minority ethnic children and young people in care and the criminal justice system, and to ensure that they are protected from criminalisation. Imkaan told the review:<sup>201</sup>



*Part of what needs to be understood is that views of young BME people are shaped within a broader societal context and that this impact is not limited to what happens in terms of the care system and [criminal justice system] responses (although over representations are particularly acute in these settings).*

The role played by wider society is reflected in the experiences of a respondent to the review when she was a child in foster care some decades ago, which she linked directly to her subsequent offending:

*...because I was not liked I was always sent out from dawn to dusk. I was a black child and the other children were not allowed to play with me so I just walked the streets for hours on end. This led to my being abused. I also started stealing sweets from local shops. This was all before I was seven years old so it set a precedent for events later in life.<sup>202</sup>*

How much has changed since this respondent was a child in care? An independent social worker and psychotherapist now working in the care system told the review:

*In my experience, acknowledging difference and ensuring that this is considered and addressed, is something that is always on the agenda at any meetings that concern children in care.<sup>203</sup>*

However, inequalities persist in terms of outcomes. Imkaan points to the greater likelihood for young people from some minority ethnic groups to be excluded from school, with pupils of Black Caribbean heritage more than three times more likely to be permanently excluded (OCC, 2013) and to be unemployed, with Black Caribbean, Black Caribbean and White, and Gypsy Traveller groups having the highest proportion of unemployed young people aged 16 to 24 (Census, 2011).<sup>204</sup> This was reflected anecdotally by a volunteer working with young men from minority ethnic groups in prison:<sup>205</sup>

*We ... found out that a high proportion of them were excluded from school, the same pattern and the same story being told prison after prison. When they are excluded, no one seems to check up on them to see if they are getting the "one to one" organised by the local council to make sure they are being schooled.*

*The gangs are waiting at the side of the road to collect them when they come out, which is a reason many then descend into crime.*

This respondent felt that it would be helpful for some young men from minority ethnic groups to be met by a mentor on release from prison or sent to a different area to start again.

BTEG concluded that much of the feedback from the young men who took part in the focus group at HMP YOI Feltham would probably be generic to the experience of any care leaver who ends up in the criminal justice system, regardless of their ethnicity. They went on:<sup>206</sup>

*There was, however, a sense from their reality that race compounds the negative experience further, fuelled by stereotypes and institutional methodologies that value paper trails and policies more than the bedrock relationships that can steer young people onto different paths.*

This was reflected in the comments of two young men in the group about the treatment they received in the care system:

*All the professionals have a negative stereotypical view of black families. The professionals don't understand our lives, they don't live in our areas, they don't know people like us. They hate us!*

*Social workers just don't relate to us. I had a good relationship with one social worker and then they left, I don't even know why, but that was the only social worker that I got on with and after that it was just downhill.*

Young men from minority ethnic groups in custody with experience of care

These young people made clear that they felt they had been discriminated against on the grounds of their ethnicity, by institutions within and outside the criminal justice system. They linked this specifically to their offending history:

*The police - the unfair treatment is just normal if you're black.*

*Once you have been inside and come out the criminal record just stops any chance you have of going straight. So you get pulled back into crime. It's worse if you are black, just harder to get that break.*

*I feel from young the system has been training me to come here.*

Young men from minority ethnic groups in custody with experience of care

BTEG noted from this focus group “a sense that professionals and institutions failed to have a sympathetic understanding of the lived experience of these boys as they were when in care” and pointed to “a need expressed in the discussions for contact with others who share a similar cultural heritage”. This reflects comments by the Association of Child Psychotherapists that, particularly given that young people in care may already feel “different, stigmatised and ‘forever rejected’”, understanding “culture, history and background is key to a sense of integration and identity”. They argue that “more work and training around this would be helpful across the board, regardless of what that difference may be about.”<sup>207</sup>

Similarly, the young men and women taking part in the community focus group expressed a general antipathy towards statutory agencies and professionals, with the greatest level of anger and resentment directed at social workers and the police:

*Police officers lied on their report when they raided my house.*

*Because of the way the system is set up. As BAME people we are perceived as a minority, we are at the bottom of the society, we are inferior.*

*The police don't treat us well. We should all have the same responsibility. If I commit a crime I should be judged fairly as well as the police officer when they do something wrong.*

*The media is also against us. We are entertainment to them.*

Young people in this group expressed anger and a lack of hope that anything will change for the better:

*Nothing is going to change. The world has been messed up for a very, very long time.*

*The system has to want change. We keep asking them for change, we keep being consulted ...*

*People are not born racist but if the system is racist already, racism continues.*

Young black and minority ethnic people in custody told the review that it would help more children and young people in care to stay out of trouble, if professionals listened to them. These young people felt that negative racial stereotypes can prevent that happening:

*... The one service at the YOT that was really useful was a counselling service because they were interested in you and your side of the story. The YOT workers were terrible, just interested in finding faults and telling you what to do. All judgemental and just ticking boxes.*

*Relationships are crucial and being treated as an individual and with respect. Try to see things from both sides. Go beyond the stereotypes and see the individual.*

The experience of these young people was that the system did not listen to or respect them and they had no voice in key decisions that had affected their lives. What they perceived as racism and stereotyping further negatively underpinned their experience in care and the justice system. Asked what would help, the young people expressed a need for more peer led interventions, access to information about what they should have expected from their carers and social workers, and positive role models within the care system. They also would have valued personal attention, commitment and practical and emotional support from social workers:

*What can be done to stop this? Treat us as individuals don't continually stereotype.*

*Social workers who care about us.*

*Advocates and solicitors from your borough from the start of the process.*

*We want people working for us, people on our side.*

BTEG concluded that "if social workers cannot build these relationships then our institutions need to engage people who can". However, asked if they had positive black and minority ethnic role models when they were growing up in care, one young person answered:

*We do. But they are nowhere to be found in the system, they are outside the system. They are not looked for by the care system.*

*I think there should be more role models. There are role models for minorities but there's no way of finding them in reality. My role models are people I see in TV, musician, actors.*

A former adolescent care worker described negative racial stereotyping between children and young people in care, commenting that they can experience “[confused] ethnic identities, they do not know how to address these issues; internalised racism, use of racist and sexist language without any understanding of historical and current/relevant context.”<sup>208</sup>

BTEG conclude that offering access to independent mentors and advocates of similar cultural heritage, who can support young people from minority ethnic backgrounds through care and the criminal justice system and act as positive role models, would be valuable. BTEG also note the lack of voice that these young people had while in care, including a lack of consultation about placements which in some cases led to children from minority ethnic groups being placed in areas without a significant minority ethnic community, leaving young people feeling isolated and unfairly targeted:

*They moved me out of London to Southend. No black people out there; felt really isolated, lots of stops by the police. The system set me up to fail.*

Young person from minority ethnic background in custody with experience of care

BTEG also found a need for a more focused, well informed and strategic approach by local authorities to ensure that the needs of young people from minority ethnic backgrounds are met, recommending that local authorities should conduct regular equality analyses about the numbers of young BAME people in their care, their experience in care compared to other children and young people and, where poorer outcomes are recorded, plans should be put in place to address this.

Imkaan point to deficiencies in the collection and analysis of data in the youth justice system which hamper the understanding of the over representation of black boys and young men in particular in the criminal justice system. They argue that it would be useful to link ethnicity to type of crime so that it can be determined whether this disproportionality is linked to:

- The types of offences that are being committed
- Stop and search, charging and sentencing decisions
- Responses towards BME boys outside of the justice system.<sup>209</sup>

Another respondent, who conducts regular focus groups with young black men in custody, shared her perception of the influence of joint enterprise convictions on the numbers of young men from minority ethnic backgrounds in custody:

*Most young BME offenders are now in prison under the “Joint Enterprise Law.” On one session alone we had 15 that should not really be in Jail! This began to be a pattern that we were seeing repeatedly in prisons. It was incredible and rather sad to see so many young black boys in prison telling their stories and having this confirmed by the prison staff.<sup>210</sup>*

This respondent noted that most of the young black men whom she meets in custody do not come from a care background, although many of them come from single parent families. Imkaan links the over representation of children and young people from minority ethnic backgrounds in the criminal justice system more broadly to the history of race relations in England and Wales, and how children and young people from minority ethnic backgrounds are treated as a result. Imkaan called on the review to ask the question ‘who has power in the criminal justice system at every stage, from policing all the way through to sentencing, and what that means for responses towards young BME people’.<sup>211</sup>

## **4.2 Looked after children and young people of Muslim faith**

The proportion of boys in young offender institutions who said they were of Muslim faith rose from 16% in 2010–11, to 21% in 2014–15.<sup>212</sup> In secure training centres, the proportion of Muslim children has almost halved in recent years, from 21% in 2013–14 to 12% in 2014–15.<sup>213</sup> Muslim children in secure training centres have reported a worse experience of custody than other children in many areas with, for example, only 38% reporting that they knew where they would be living when they left the secure training centre compared with 74% of other children and young people.<sup>214</sup>

According to unpublished data provided with permission from HM Inspectorate of Prisons, based on their 2014–15 survey of children and young people in custody<sup>215</sup>, 50% of Muslim children surveyed in secure training centres during 2014–15 reported experience of local authority care. This is a slightly lower proportion than non-Muslim children who were surveyed, 52% of whom had experience of care (N=203).

Submissions to the review have raised concerns about the over representation of Muslim children and young people in the criminal justice system and deficiencies in emotional and practical support for Muslim children and young people in custody, and have pointed out that many Muslim children and young people are black or from another minority ethnic background (89% of Muslim children in secure training centres, compared to 26% of other children in secure training centres<sup>216</sup>) and are therefore likely to be affected by the same matters described in the preceding section.<sup>217</sup> Imkaan has raised the problem of negative stereotyping in relation to Muslim children and young people:<sup>218</sup>

*BME and Muslim young people suffer from negative stereotyping in society, the media, government policy and legislation... Those in care and the youth justice system are likely to be impacted by such stereotyping throughout their lives, before entering, during engagement in, and following exit from, care and/or the youth justice system.*

In light of concerns about the over representation of Muslim children and young people in the criminal justice system generally and the extent to which their needs are met, we conclude that the particular experience of looked after children and young people of Muslim faith requires further study.

### **4.3 Looked after girls**

As in the general population, looked after girls are significantly less likely than boys to be convicted of an offence. As such, they are a minority group within the criminal justice system and there is a lack of research about their experiences, needs and characteristics (Staines, 3.1, p.8). According to unpublished data provided with permission from HM Inspectorate of Prisons, based on their 2014-15 survey of children and young people in custody,<sup>219</sup> 51% of girls surveyed reported that they had experience of care, compared with 53% of boys (N=203).

Some submissions to the review suggested that girls in care are at greater risk of child sexual exploitation than boys<sup>220</sup>, and that this is linked to criminalisation. Negative stereotyping on the basis of care status and involvement in offending may be compounded as a result of their gender:

*I feel like we have a double standard, it's not just with the police or social services, with the whole public sector... Like the police, if I'm in trouble or whatever, they'll come there super quick, they bug me, they'll run me down, they'll call me names... Then, when I got robbed and called them, they were very willy-nilly...there was never an explanation of what actions exactly they were going to take.*

Young woman with experience of care and the criminal justice system

There appears to be an increased risk of child sexual exploitation where girls are moved between multiple placements or are placed far from home. The risk is also increased for young women leaving care, if they are placed in inappropriate bed and breakfast or hostel accommodation dominated by male residents. One young woman with experience of care spoke of being arrested at home by several male police officers and not allowed to go to the toilet because there was no female officer to accompany her.<sup>221</sup> Some commented that unequal treatment by the police may be compounded for looked after girls who are black or from other minority ethnic groups.<sup>222</sup>

### **4.4 Looked after children and young people with developmental disabilities and disorders, learning disabilities, learning difficulties and speech, language and communication needs.**

In England looked after children are four times more likely to have a special educational need than all children and are almost 10 times as likely to have a statement of special educational need or an education, health and care plan (EHC plan) (Staines, 3, p.7). In 2015, 61% of looked after children in England had a special educational need, compared to 50% of children in need and 15% of all children.<sup>223</sup>

Information on the primary need is collected for children who have special educational needs with a statement or an EHC plan, or who have been identified as needing SEN support. For both groups, social, emotional and mental health was the most common primary need for looked after children in England in 2015, covering 38% of those with a statement or EHC plan and 45% of looked after children with SEN support. Looked after children in England are three times more likely than other children to have a primary need of social, emotional and mental health.<sup>224</sup>

A number of submissions to the review have raised the importance of earlier identification and an improved response to developmental disabilities and disorders including Autistic Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder (ADHD) and related conditions, as well as Foetal Alcohol Syndrome Disorder (FASD) and Alcohol Related Neurodevelopment Disorder (ARND). Mention has also been made of Acquired Brain Injury (ABI), which can lead to learning difficulties, emotional difficulties and changes in behaviour.

Many respondents have discussed the impact of unmet and unidentified speech, language and communication needs amongst looked after children and the links with offending, citing the disproportionate presence of SLCN amongst children in care, and the specific impact that communication needs can have on a young person's ability to represent themselves within the criminal justice process.<sup>225</sup>

Submissions to the review stress the importance of identifying developmental disabilities and disorders, learning disabilities, learning difficulties and speech, language and communication needs at the earliest possible opportunity and to offer appropriate and timely support, so that children and young people have the opportunity to develop to their full potential and so that their behaviour is understood in the context of underlying conditions and needs.

Some of these conditions can be difficult to diagnose. However it is clear from submissions to the review that professionals who have contact with looked after children who are at risk of criminalisation should be better able to identify underlying conditions and additional needs, or to identify when a specialist assessment may be required, and that front-line staff should be better at engaging effectively with children and young people who have such needs and offering the right support. This includes carers, social workers, teachers and health professionals, as well as the police, Crown Prosecution Service officers, lawyers, magistrates, judges and staff in secure establishments. Ensuring that children and young people's needs are met also requires more effective communication between children's social care, health, education and criminal justice agencies to ensure that information is passed on about children's known conditions and needs and that this information is taken into account in the treatment of children and young people and decisions that affect them. There should also be improved access to specialist services and support.

#### 4.4.1 Developmental disabilities and disorders, learning disabilities and learning difficulties

A consultant child and adolescent psychiatrist specialising in the assessment and management of Autistic Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder (ADHD) and learning disabilities in young offenders, many of whom have experience of care, told the review:

*The lack of understanding about how [ADHD, ASD and Learning Disability], in particular ADHD can contribute towards both children coming into care and into custody – is grossly overlooked....*<sup>226</sup>

These comments were reflected in a number of submissions from parents and carers.

TACT discuss Foetal Alcohol Spectrum Disorders (FASD) and ARND (Alcohol Related Neurodevelopment Disorder) in detail in their submission.<sup>227</sup> They report that ARND is often either undiagnosed, or misdiagnosed as ADHD or an ‘attachment disorder.’ This is because ARND manifests in a range of emotional and behavioural issues. The significance of ARND and its relation to crime rates amongst care leavers, is that if the ‘primary disability’ of being foetally affected by alcohol is misdiagnosed or undetected, the risk of ‘secondary disabilities’ later in life significantly increases, including mental health issues, predisposition to alcohol and drug addiction, early pregnancy and an increased risk of offending. A life of undetected brain damage can therefore lead to criminalisation.

TACT therefore believe that the high number of children in care going into custody may partially result from disproportionate numbers of children with FASD being in care. Appropriately treating children born with FASD and increasing awareness of the condition will lead to better routines and structures to help children to thrive.

There may be particular difficulties for children with learning disabilities and learning difficulties. One care home manager responding to the review commented:<sup>228</sup>

*I have been involved with persuading a young and enthusiastic police constable not to criminalise an 18 year old girl who had assaulted her foster carer. She had a learning difficulty and functioned at an emotional age of around four but the constable was determined that she needed to face the “consequences” of her actions. This punitive approach from police and often educators, who exclude our young people, further alienating them from the mainstream of society, leads to care leavers becoming incarcerated within our prisons where at least they are fed and clothed and may get someone to pay them some attention.*

Another magistrate cited a case he heard in Cheshire in 2015, in which a 15-year-old boy ‘with obvious learning difficulties’ was brought before a court, having pushed a member of staff, causing him to fall and sustain bruises. The boy had previously been housed in the East Midlands, the North East and the South East.



#### 4.4.2 Speech, language and communication needs

Many respondents have discussed the impact of unmet and unidentified speech, language and communication needs amongst looked after children and the links with offending (Staines, 3, p.7). The Royal College of Speech and Language Therapists argues that anyone working with looked after children should be aware of the possibility that they may have speech, language and communication needs and cites research by McCool S. and Stevens (2011) showing that these needs are often unidentified. (Submission 195)

A specialist YOT speech and language therapist cited an Office of National Statistics review of the health needs of looked after children which found, despite evidence of serious under reporting, that speech, language and communication needs were the second most frequently reported difficulty for looked after children. (Submission 54) This was also the health condition most significantly over represented in looked after children when compared to children who were not looked after (Melzer et al 2002 (ONS)). This respondent went on to note:

*Nationally there are very few specialist Speech and Language Therapists (SLTs) for older children who have sufficient understanding of the language development and needs of adolescents and young adults. Few areas in the country have access to therapeutic Speech and Language Therapy services for children of secondary age.*<sup>229</sup>

As this respondent and others point out, identifying and then meeting speech, language and communication needs is critical to supporting early attachment, later adolescent social and emotional development and in order to access education, all of which are essential to protecting children from criminalisation. Yet in many cases, this respondent reports, “the implications for [looked after children] with [speech, language and communication needs] are neither identified nor understood by those working to support the child/young person.” He goes on:

*Young people with [speech, language and communication needs] struggle to establish and maintain relationships, modulate their social responses or make sense of their experiences leading to feelings of isolation, distress and academic and social exclusion. This increases their vulnerability for offending behaviours including drug use. For [looked after children] this is magnified by the additional complexity of their specific social and emotional vulnerabilities.*

This includes disadvantages faced within the criminal justice process, for example in the way young people present themselves in court appearances, which can have a direct impact on sentencing. (Submission 181)

#### 4.4.3 Acquired brain injury

Research by Professor Huw Williams of the University of Exeter, commissioned by the Barrow Cadbury Trust for the Transition to Adulthood (T2A) Alliance, indicates the need for a specific focus on acquired brain injury in looked after children who are at risk of offending. Professor Williams identified looked after children as an 'at risk' group for traumatic brain injury (the most common type of acquired brain injury).<sup>230</sup> He found growing evidence of links

between incurring a traumatic brain injury and subsequent offending, and argued that traumatic brain injury in childhood and young adulthood may be particularly associated with offending behaviour. Professor Williams found that earlier and more effective means to assess and manage the consequences of traumatic brain injury in the offender population and amongst those at risk of offending might lead to improved outcomes for affected individuals and for society.

## **4.5 Looked after children and young people who are subject to immigration control**

### **4.5.1 Mental health and emotional wellbeing of foreign national children in care**

One respondent argues that looked after children whose immediate or extended family are resident outside the United Kingdom are even more disadvantaged than looked after children whose families live in the UK. He argues that proper examination of this issue and support to help these children trace relatives abroad could be transformative for them.<sup>231</sup>

A retired magistrate comments that services struggle to meet the mental health needs of asylum seeking children who have experienced extreme trauma and violence:<sup>232</sup>

*During my time as a trustee of a charity providing hostel support for young people leaving local authority care, we found that some of our residents had come to the UK as unaccompanied minors fleeing wars and persecution. Traumatized by their experiences and the loss of their families these young people brought to the local authorities and to small charities like my own, a range and severity of problems which we were ill equipped to address. In my very small organisation we suffered two murders. In one case a resident was the victim and in another case it was our resident who was the murderer. This level of violence and the deep seated harm suffered by the young people made it impossible for the small charity with which I was involved to continue. Sadly we changed focus, leaving the local authority in question with one less resource to offer its [looked after children] leaving care. I would suggest that the situation today is even worse than twenty years ago both in terms of need and in terms of resources.*

See also Staines, 3.5, p.10. This is likely to be an increasing challenge for local authorities receiving unaccompanied children fleeing conflict in the Middle East. (See also Appendix Two, individual story 3.)

### **4.5.2 Support to resolve immigration problems**

Some submissions revealed an apparent lack of support for looked after children in resolving complications arising from their immigration status. One young woman taking part in a focus group, who has been subject to immigration control since her arrival in the United Kingdom as a young child, talked of feeling invisible because she still did not have any formal identification papers, although she was now a young adult. She found that being arrested gave her a sense of identity:

*When I got arrested I felt that I got to exist as they took my finger prints. Even if I was not proud to be arrested...*

A young review panel member told us that she had felt unsupported by her parent local authority in handling her immigration case, which was ongoing despite the fact that she came to the United Kingdom as an infant.

#### **4.5.3 Consideration of care background in deportation proceedings**

Under the UK Borders Act 2007, a foreign national who is over 18 at the time of conviction (but not necessarily at the time of committing the offence) and is sentenced to a term of imprisonment of 12 months or more faces automatic deportation unless an exception to deportation applies. Concerns have been raised with the review about unfairness where care leavers face deportation under these provisions, particularly where the circumstances in which they came to the UK, and their experiences in the care system, are not taken into account in deportation proceedings. An individual story concerning a young man facing deportation to Congo, which encapsulates these concerns, appears in Appendix Two. (Individual story 3)

Detailed investigation of these matters has been beyond the scope of this review. We believe further study is required to ensure that foreign national children and young people in care are protected from criminalisation and that, where it is not possible for them to avoid formal criminal proceedings, they are well supported and fairly treated in the criminal justice system.

It is clearly essential that young people with experience of care who are subject to deportation proceedings due to criminality should be legally represented in those proceedings and that full information should be provided to the tribunal to ensure that the circumstances of their coming to the United Kingdom and their experiences in the care system are taken into account.

#### **4.6 Looked after children and young people who are victims of trafficking**

*...In the UK we continue to criminalise exploited and trafficked minors, despite having legal protections ... I am currently being referred on average a case a week, the true scale of the problem is vast and victims of trafficking are being prosecuted daily throughout the UK...*

*Many of my clients who have been prosecuted go missing within a week of being released from custody, from their foster placements and local authority care. There are issues with safeguarding, protection plans and lack of training and awareness surrounding human trafficking and the complexities of debt bondage...*

Philippa Southwell, Birds solicitors<sup>233</sup>

Philippa Southwell told the review about the looked after children and young people she represents who are victims of trafficking. Her concerns are echoed by ECPAT UK.<sup>234</sup> They report that professionals across the criminal justice system are unaware of the problem, have a poor understanding of trafficking and little knowledge of how to engage with this group. ECPAT UK has urged the review to ensure that this particularly vulnerable group of children in the prison estate are identified as victims and protected in line with legislation and policy.

In 2014, National Crime Agency data identified 732 potential child victims of trafficking, of whom 142 were trafficked for criminal exploitation. Most of these children were Vietnamese or from the Roma community in Eastern Europe, although there are increasing concerns about British nationals being exploited and wrongly criminalised. ECPAT UK report that their research uncovered 159 cases of Vietnamese individuals prosecuted for cannabis cultivation since 2011, despite significant trafficking indicators being present.

In a 2015 report, the National Police Chiefs Council reported:<sup>235</sup>

*Victims continue to be exploited for the purpose of criminal activity. Individuals, including children, have indeed been prosecuted as opposed to being safeguarded as vulnerable victims. There are clear examples of children being re-trafficked after coming into contact with law enforcement, with many going missing from local authority care.*

A Home Office-commissioned evaluation of an independent child trafficking advocates trial (2014-15) documented cases of children going missing (often whilst on bail) and being trafficked again.<sup>236</sup> This study concluded that the advocacy service had been beneficial to trafficked children, including by keeping them safely visible once the service had started working with them.

ECPAT UK notes that young people exploited for forced criminality are amongst the hardest to reach groups of people trafficked into the UK:

*Isolated by language, cultural barriers and a lack of social networks, they are extremely vulnerable, often repeatedly exploited and many are prosecuted rather than recognised as victims. Indeed, they often do not see themselves as victims because they have been groomed and are often in debt bondage.*

ECPAT UK reports that child victims are frequently treated as adults and not given the appropriate support and protection, putting them at a further risk, due to a lack of identity documents, or having been given false documents. Children trafficked from abroad are frequently advised to plead guilty by solicitors who do not recognise trafficking or have knowledge about the rights of victims. Crown Prosecution Service guidance details the principle of non-prosecution of child victims but ECPAT UK is still seeing cases where this is not followed. The Modern Slavery Act, passed in 2015, gives provision for a statutory defence of trafficking but it has yet to be used and ECPAT UK and Philippa Southwell have doubts about its suitability for children.

Philippa Southwell and ECPAT UK argue that early identification of victims is key. In order to enable this, Philippa Southwell points to the process followed in Scotland and recommends that in England and Wales the police should:

- Cover trafficking in the custody record/booking in process
- Cover trafficking in crime reports
- Share information to avoid new prosecutions if children are trafficked again.

In 2014 ECPAT UK was approached by a member of staff from a young offenders' institution who was concerned about potential victims in the prison estate. ECPAT UK reports that there is still no guidance for prison staff about how to identify victims of trafficking and modern slavery, and no specific guidance on safeguarding possible victims in the prison estate.

Based on these findings, we make the following recommendations:

## **Recommendation 7 – Respond to the particular needs of looked after children and young people in minority groups**

- 7.1 Data about looked after children's involvement in the criminal justice system should be regularly published and clearly disaggregated on the basis of ethnicity, faith, gender and disability and, where applicable, the type of custodial establishment in which children are held.
- 7.2 We welcome David Lammy MP's independent review of the treatment of, and outcomes for black, Asian and minority ethnic people in the criminal justice system, commissioned by the Prime Minister and due to report in Spring 2017.<sup>237</sup> With assistance from the Department for Education, the Welsh government and the Youth Justice Board for England and Wales, the Lammy review should:
- (a) Specifically consider the experience of looked after children and young people who are black or from other minority ethnic backgrounds in the criminal justice system, including why they are over-represented in custody compared to other looked after children; and
  - (b) Analyse the available data, disaggregated by ethnicity and region, and make recommendations as to gaps that need to be filled in order to identify unequal outcomes and their underlying reasons, to achieve equal treatment for all children and young people, and to measure progress.
- 7.3 In establishing and monitoring locally agreed outcomes to protect children and young people in care from criminalisation (see recommendation 1), lead local authority members for children's and social services, corporate parenting boards and Chief Constables should include a specific focus on:
- (a) Meeting the needs of children and young people in care who are black or from another minority ethnic group
  - (b) Meeting any faith-related needs of children and young people in care
  - (c) Ensuring that the treatment of children and young people in care is gender-sensitive. This must include, at a minimum, ensuring that girls have access to support and supervision by female officers and staff.<sup>238</sup>
  - (d) Meeting any additional needs of children and young people in care due to developmental disabilities and disorders, learning disabilities, learning difficulties and speech, language and communication needs. This should include training to ensure

that frontline staff and police officers in all agencies are able to identify and respond to any possible needs, ensuring prompt and appropriate information sharing about known needs and ensuring children and young people have access to support and any specialist services required to support their social development, education and emotional wellbeing and protect them from criminalisation.

(e) Meeting the needs of looked after children who are subject to immigration control. This should include, at a minimum:

- (i) Ensuring that the mental health needs of unaccompanied asylum seeking children are met as a priority, recognising the circumstances of their coming to the United Kingdom;
- (ii) Supporting foreign national children in care to resolve any outstanding matters concerning their immigration status; and
- (iii) Ensuring that young people with experience of care who are subject to deportation proceedings due to criminality are legally represented in those proceedings and that full information is provided to the tribunal to ensure that the circumstances of their coming to the UK and their experiences in the care system are taken into account.

(f) Meeting the needs of looked after children who are potential victims of trafficking. This should include ensuring that they are identified as victims at the earliest possible stage and protected in line with legislation and policy. This must ensure at a minimum that:

- (i) The police:
  - a. Cover trafficking in the custody record/booking in process
  - b. Cover trafficking in crime reports
  - c. Share information with other forces to avoid new prosecutions of children who are trafficked again;
- (ii) Children's social care and social services, youth justice services, the police, Crown Prosecution Service, lawyers, magistrates, judges and staff in the secure estate receive training on how to identify potential child victims of trafficking and how to safeguard those children; and
- (iii) The Home Office, Ministry of Justice and Youth Justice Board for England and Wales work together to produce guidance on how to identify victims of trafficking and how to safeguard possible victims in the secure estate.

## Outcome Five: Effective prevention, diversion and rehabilitation - close joint work is pivotal between children's social care, youth justice services, child and adolescent mental health services, the police, the Crown Prosecution Service, the courts and the secure estate

*From my experiences it felt that I was in care so it was expected I got into trouble with the police, as I was bad news. I felt that children in care were treated differently in the youth justice system to someone who may live at home with their parents.*

Adult who grew up in care<sup>239</sup>

*Our Youth Panel took up this issue with the Crown Prosecution Service and the Local Authority, and we kept being given the reassurance that every case involving a looked-after child was reviewed according to a special protocol to weed out minor misdemeanours and only prosecute those cases which passed a 'public interest' test. And yet the young people continued to appear in court for ... kicking doors, squirting shower gel on carpets, using abusive language to staff.*

Magistrate, recently retired<sup>240</sup>

### 5.1 Tension between welfare and punishment

Many respondents highlight the tension at the heart of the youth justice system between welfare-based and punitive imperatives. Some refer to the low minimum age of criminal responsibility (10 years in England and Wales) as a factor that increases the risk of looked after children being criminalised.<sup>241</sup>

Catch 22 ask whether the youth justice system is too punitive rather than relational.<sup>242</sup> They comment that, as well as managing risk and maintaining boundaries, the youth justice service should provide a protective framework for young people to receive the support they need, and develop and build on protective factors in the child's life to create opportunities and alternatives.

The British Association of Social Workers (England), amongst others, identifies a sharp disjunct for looked after children who get in trouble, commenting that the youth justice system recategorises children in care from being primarily vulnerable and in need of protection to young offenders who present risk and are in need of sanctions, so that looked after children are no longer seen for what they are, namely victims of child abuse and neglect. They argue that the paramount importance of welfare and the philosophy and culture of government departments are crucial to support looked after children and young people in achieving better outcomes.<sup>243</sup> The Centre for Mental Health argues that, in light of the wealth of information pointing to the vulnerability of children and young people in the criminal justice system, particularly higher risk groups such as looked after children, there should be 'a twin focus legislatively on preventing offending and supporting the welfare of children in the [youth justice system] to drive improvements in care and enhance risk management'.<sup>244</sup>

Dr Claire Fitzpatrick of the University of Lancaster is one of a number of respondents who pointed out that children in care are more likely to be victims of crime than other children.<sup>245</sup> She told the review:<sup>246</sup>

*Children in care ought to be diverted from the youth justice system wherever possible, as this system is not an appropriate space in which to respond to the needs of those who the state previously deemed to be in need of welfare, protection and support. Yet for the benefit of those already in the system, there must be a far greater emphasis on welfare and needs, as well as on the broad links between victimisation and offending. With this in mind, a trauma informed youth justice system (cf. Mendes et al, 2014) would be an important goal to aspire to.*

These comments are reflected in many other submissions and form part of the context for considering how best to prevent looked after children coming into contact with the criminal justice system, diverting them from it wherever possible and, where this is not possible, ensuring they are fairly treated and well supported to prevent reoffending.

## **5.2 Children's social care services should lead close joint work**

It is evident from submissions to this review that children's social care (in England) and social services (in Wales), working in close partnership with youth justice services, should take the lead in establishing and implementing joint working protocols with the police, Crown Prosecution Service, courts and secure establishments, to protect looked after children from formal involvement with the criminal justice system. All agencies involved must show sustained leadership to achieve success. This work must include:

### **5.2.1 Preventative parenting**

Children's social care and social services should ensure that parenting practices for looked after children are effective in preventing behaviour which could lead to contact with the criminal justice system, and which respond restoratively to challenging behaviour without involving the police. Youth justice services may play a supporting role here, and the police also have a key preventative role.

In Surrey, restorative parenting is being promoted amongst foster carers and residential care staff, aimed at supporting children's social development. Where children and young people do exhibit challenging behaviour, carers are able to respond restoratively without involving the police. The Restorative Justice Council (RJC) argues that restorative practice should be used by staff in every care home in England and Wales to prevent and deal with conflict in the home.<sup>247</sup> The RJC explains:

*In care homes an approach based on restorative principles can be embedded into everyday life, rather than solely being used as a response to negative or challenging behaviour. The aim is to provide an environment of high challenge and high support. Children are given clear expectations of how they are expected to relate to others, and challenged supportively when they fail to meet those expectations. Equally, positive behaviour is acknowledged and celebrated. Staff are held to the same high expectations,*



*and issues can be addressed in restorative circles, giving everyone a chance to contribute equally to making decisions, addressing conflicts and finding solutions. Ultimately, the aim is to create an environment where everyone is responsible for their actions and choices and can be held accountable for them.*

Amongst others, the RJC cites two examples where the use of restorative practice in children's homes has reduced the criminalisation of children in care:

- In Norfolk, the number of young people in care who became involved in the criminal justice system dropped by 52% two years after the implementation of county-wide restorative practice in children's homes. The scheme was introduced in 2009 and saw 100 staff trained in restorative practice. The number of young people in care who were charged with a criminal offence over the next two years fell from 7.2% in 2009 to 3.4% in 2011.<sup>248</sup>
- There was a 23% reduction in police call outs during the three years following the implementation of restorative practice in care homes by Hertfordshire County Council, compared to the previous three years.<sup>249</sup>

## **5.2.2 Raising awareness and challenging negative stereotypes**

*The criminal justice system must recognise that children in care have additional vulnerabilities rather than jump quickly to 'criminalise' poor behaviour.*

Essex Youth Offending Service<sup>250</sup>

*Young people in care are right in their assumption that whatever they do is both visible, talked about by everyone around them and used against them. So yes they are at a disadvantage in the justice system as they are in the care system. They believe that the justice system will think them 'bad' because they are in care before any evidence is heard.*

Independent social worker<sup>251</sup>

Many respondents to the review, including the British Association of Social Workers (England),<sup>252</sup> have pointed out the stigma that can be attached to looked after status, including amongst criminal justice agencies. Submissions to the review from young people, particularly those from black and minority ethnic backgrounds, have revealed negative and, in some cases, hostile attitudes to the police and a perception of being negatively stereotyped due to looked after status and race (see also Outcome Four).

Many respondents to the review have noted that even minor misbehaviour by children in care is scrutinised, recorded and shared between professionals in a way that would not happen to children living with their families. Young people told the review that reliance by social workers on their paper files meant they could never escape past bad behaviour or overcome negative preconceptions about themselves. One young panel member commented:

*It's never a fresh start, never a clean slate.*

Young person with experience of care and the criminal justice system<sup>253</sup>

Based on submissions to the review, it is clear that raising awareness amongst the police, Crown Prosecution Service, courts and secure establishments about the needs, characteristics and great potential of looked after children and young people should be central to the work of both children's social care and youth justice services in order to ensure they are well supported and treated fairly in the criminal justice system.

Sunderland Youth Offending Service makes a direct link between awareness raising and reducing criminalisation of looked after children and young people:<sup>254</sup>

*Police perceptions of young people in care as being 'difficult' increase the risk of police intervention to charge, as young people can be uncooperative when dealing with police enquiries/stop searches. For example, a young person given a Triage for 'wasting police time' for going missing through child sexual exploitation concerns.*

They argue:

*Police need to 'assist and advise' care givers rather than revert to decisions to charge for low level/minor offences...*

Tackling stigma and negative stereotypes will help to build better relations between looked after children and young people and criminal justice agencies, including the police. Respondents report that this is an essential component in measures to prevent challenging behaviour which could lead to criminalisation, and to ensure children and young people in care are diverted from the criminal justice system wherever possible.

The police, youth justice services, Crown Prosecution Service, courts and secure estate need to know when they are making a decision about a looked after child; they need to have a strategic and practical approach to meeting the needs of looked after children so as to ensure that they are not placed at a disadvantage in the proceedings because of their looked after status; and they need to take these considerations into account when making decisions about any individual looked after child or young person.

This must include, for example, awareness about the prevalence of mental health and speech, language and communication needs amongst looked after children and young people and the impact this can have on how they present themselves in police interviews or in court, and on their understanding of the proceedings. It is also important for the police and courts to have a general understanding of the practical circumstances that can lead to looked after children and young people being unnecessarily drawn into the criminal justice system, and that can present challenges in their compliance with bail conditions and community disposals. For the police and youth offending services, a focus on building strong and positive relationships with looked after children and young people is also essential.

Inquest reports that evidence from their case studies shows perpetual failings in understanding the specific vulnerabilities of care leavers, inadequate service provision, inappropriate use of imprisonment and insufficient use of diversionary measures to keep vulnerable children and young people out of the criminal justice system and out of custody in particular.<sup>255</sup>

We conclude that children’s social care services and youth justice services should raise awareness amongst the police, Crown Prosecution Service, courts and secure establishments about the needs and characteristics of looked after children and their particular vulnerability to criminalisation and challenge negative stereotypes, in order to ensure that looked after children are treated fairly by criminal justice agencies and protected from criminalisation wherever possible. This should include awareness raising about the impact of early life trauma and the need to give careful attention to the needs of individual looked after children. The Youth Justice Board for England and Wales could play a leading role here, with youth justice services and children’s social care services leading work at local level with the support of CAMHS.

### **5.2.3 Close joint work with criminal justice agencies**

Respondents to the review make clear that the implementation of joint protocols between children’s social care and social services, including care homes and foster care agencies, and the police is also essential to help prevent looked after children getting unnecessarily drawn into the criminal justice system. Where fully implemented, these protocols can form an important part of building good relationships between the police and looked after children. They are also key to diverting looked after children and young people from the criminal justice system wherever possible, and preventing reoffending.

Parent local authorities can benefit from working with the police to build links and positive relationships with care settings. The role of the police is pivotal in preventing the escalation of challenging behaviour into offending. Where the police have to be called in an emergency, this should not necessarily require a formal criminal justice response. ‘Cooling off’ periods may be built in before decisions are made about how to progress, with formal or informal outcomes informed by joint decision-making.

The review has heard from a number of local authorities and youth justice services about their own models of joint working practice, aimed at reducing the criminalisation of looked after children and young people. These include Nottinghamshire City Council, Sunderland Youth Offending Service, Blaenau Gwent and Caerphilly Youth Offending Service, Waltham Forest Youth Offending Service/Early Help team and others (Submissions 199, 207, 196 and 198). Further details of some of these are given in Appendix Two.

We conclude that children’s social care (in England) and social services (in Wales), in partnership with youth justice services, should take the lead in developing protocols for joint working with local police, Crown Prosecution Service, courts and secure establishments to protect children in care from criminalisation.

### **5.2.4 Timely and appropriate information sharing**

It is crucial that every decision about a looked after child or young person by criminal justice agencies is made with full information about the needs and characteristics of looked after children in general and that young person’s circumstances in particular. This requires timely and appropriate information sharing by children’s social care and youth justice services with each other and with criminal justice agencies.

This in turn requires efficient structures for information sharing. Some respondents have spoken of challenges in information sharing between children's social care services and youth justice services. This has led some to argue that the information systems of children's social care services and youth justice services should be combined.<sup>256</sup> Catch 22 argues that the Troubled Families agenda should be taken further, avoiding silos between safeguarding and justice agencies which can lead to duplication.<sup>257</sup> They also take the view that the multi-agency organisation of youth offending teams should be improved to support transition to adulthood. Catch 22 point out that when a looked after child enters the criminal justice system, critical safety information such as risk factors must be shared by children's social care with criminal justice agencies: data protection requirements must be balanced with the risk of harm if information is not shared.

Some submissions suggest that effective joint working is lacking at local level. Core Assets Transformation and Rehabilitation argue:<sup>258</sup>

*The care system and Youth Justice System work in parallel, but all too often fail to work together. There remains a lack of understanding between workers, teams and departments about roles and responsibilities as well as a failure to effectively engage the judiciary. Consequently services tend to be reactive and lack the collaboration between social care and the justice system that is conducive to constructive sentencing, effective resettlement and rehabilitation...*

*There are pockets of good practice based on individual YOT workers effectively mentoring a young person through a range of challenges in order to reduce offending, however the relationship is to some degree always strained by the conflict between their responsibility to enforce statutory orders and the flexibility needed to deliver a transformative service that is able to adapt to the individual's needs and nuances.*

Surrey County Council report difficulties in sharing information effectively with the police. They comment that one of the biggest challenges to the implementation of the South East Protocol has been that police often do not know they are interviewing a child in care and have charged or cautioned the child before this becomes apparent.<sup>259</sup>

Inquest cites the 2015 HMIC report on vulnerable people in police custody, which includes frequent examples of police responding to vulnerable people, and deciding whether to arrest them, with little knowledge of their circumstances, especially where health and social care services are under-resourced.<sup>260</sup>

Two of the aims of the National Police Chiefs Council's strategy for working with children and young people are to reduce the over representation of children in care in the criminal justice system and to reduce the use of police custody for children in general. If taking children into custody is a matter of last resort then it is incumbent upon the police to make sure any decisions in custody are fully informed and they know who they are dealing with. We conclude that no decision should be taken to criminalise a looked after child unless it is fully informed by reference to their corporate parent.

Timely and appropriate information sharing about individual children and young people is essential to ensure that all decisions about a child are made with full information available and that decisions are made jointly wherever possible. Examples of local practice in information sharing have been provided by the Youth Justice Board for England and Wales.<sup>261</sup>

### **5.2.5 Support and advocacy and ensuring looked after children have a voice in the criminal justice system**

Many respondents have noted that multi-agency working, with youth justice services at its heart, can work very well to support looked after children and young people through the criminal justice process (see for example Appendix Two, Individual Story 2). The role of children's social care (in England) and social services (in Wales) is also essential throughout the criminal justice process, to offer emotional and practical support to looked after children and young people and advocate on their behalf.

However, young people, appropriate adults, police officers, magistrates and others making submissions to this review have made clear their views that looked after children often suffer a disadvantage within the criminal justice process as compared with children and young people living with their own families, due to a lack of parental support and the state's failure to replace this. Areas of particular concern include:

- (a) Lack of timely, effective, independent advocacy and support at the police station
- (b) Lack of effective, independent advocacy and support in court
- (c) Failure to support looked after children to ensure their eligibility for bail and their ability to comply with bail conditions
- (d) Failure to support looked after children in obtaining and complying with community disposals
- (e) Failure to support looked after children in custody, including planning for resettlement.

It is also essential that looked after children and young people can make their voices heard both within and outside the criminal justice process and be supported to take part in decision making about matters that affect them. Some respondents have pointed out that frustration and a sense of powerlessness can be drivers of negative behaviour. Serco described the benefits of supporting children and young people in custody to make their voices heard, including through forums and consultative groups, and ensuring that children and young people can easily access a transparent complaints system.<sup>262</sup>

We conclude that children's social care and social services must do more to support looked after children and young people throughout the criminal justice process, ensuring they have timely access to an independent advocate who knows them well and is able to represent their interests at the police station and in court, and ensuring that they are able to make their voices heard in both informal and formal proceedings.

These areas are explored in more detail throughout the rest of this section.

## 5.2.6 The role of youth justice services

Respondents have made clear that youth justice services play a central role in close joint working between children's social care and social services and criminal justice agencies, supporting looked after children and young people through the criminal justice process and helping them gain access to constructive activities and support with their needs. A number of local practice examples have been provided by the YJB.<sup>263</sup>

A former social worker and youth magistrate told the review:

*Recent innovative work that I am aware of eg youths on conditional cautions has been really positive in changing behaviour and avoiding court appearances. Other positive YOS interventions provide the possibility of youths having positive role models in their lives...*<sup>264</sup>

Some respondents have spoken of the benefits for young people of being able to access support and positive opportunities through the youth offending service. The Chair of the Central Kent Youth Bench comments:

*Efforts are being made to integrate the provision through YOS for young offenders to gain access to existing local youth groups such as scouts, guides, air cadets, sea cadets, army cadets, red cross, St John's ambulance, boy'/girls' brigades etc and some sporting groups. All these cost but most will reduce/waive the cost for those in need. It is unlikely that many of those in care will have the contacts to know of such groups and YOS could assist and maybe fund such activity as part of referral orders etc. These would not suit every child but might assist many and would provide regular non-crime contact with other youths.*<sup>265</sup>

However, Dr Claire Fitzpatrick draws attention to recent research at Lancaster University (Morris, 2015) which notes that:

*...some young people under the supervision of YOTs can find themselves elevated through the intervention levels of the Asset assessment system so that practitioners with benign intentions ensure that their clients receive access to crucial services. An unintended consequence of this is that whilst a young person may well then be able to access a service that they need...they are arguably also being more deeply entrenched into the justice system...With the retrenchment of mainstream welfare services in an age of austerity there is a real danger that the youth justice system will become the key route to accessing important services for those with a number of welfare needs. This may have particular implications for young females.*<sup>266</sup>

A number of respondents have highlighted the positive role that youth offending services can play, with some concerns raised about the impact of reduced budgets. An adoptive parent commented:

*The only part of the youth justice system which can work to reduce the likelihood of a looked after child reoffending is bail conditions and the work of the Youth Offending*

*Team. If the carers and police work together, bail condition can be intelligently applied to prevent the child from reoffending. For example, naming other young people involved in crime as someone the looked after child is not allowed to have any contact with...can be very useful and in my son's experience gave him the reason he needed to stop hanging out with people who kept getting into trouble.*<sup>267</sup>

She went on:

*Some working with the Youth Offending Team are very good at what they do, however funding cuts mean staffing is reduced, limiting the time they can spend with the young person. In addition, in my son's experience over a six month period, he has had three different YOT workers due to staffing cuts and rationalisation of resources in our area. Another example of how looked after children are unable to form strong positive relationships with people.*

BASW (England) and Inquest both argue for greater use of preventative services by youth justice services and youth services.<sup>268</sup>

We conclude that youth justice services have an important role to play in developing and implementing innovative practice to prevent looked after children coming into contact with the criminal justice system and diverting from the criminal justice system wherever possible. Their role in providing courts with robust and constructive bail and sentencing options is also pivotal.

### **5.2.7 The treatment of looked after children by the police**

*Police first response attitudes are crucial in young people's relationship and perceptions on being treated fairly or otherwise.*

Youth justice service<sup>269</sup>

Work is being done in many areas of England and Wales, and at a national level, to improve the police response to children and young people and to children in care in particular, and the review has heard evidence of good practice, some of which is described in Appendix Two. The new national police strategy for working with children and young people is a welcome step forward<sup>270</sup>. The National Police Chiefs Council is working to raise awareness amongst police officers of the benefits of child friendly practice and how it can be done, with a particular focus on reducing the criminalisation of children in care.

It is clear from the recent report of the UK All-Party Parliamentary Group on Children<sup>271</sup> that progress is being made, and that further work remains to be done. Submissions to this review present a mixed picture in terms of the police response to looked after children and young people (Staines, 4.11, p.22). Yet all respondents agree on the vital importance of this response in achieving better outcomes for looked after children and young people. Improvements can only take place if the police are able to act in partnership with children's social care services and other local services.

A foster carer spoke of her positive experience with the police:

*We have had a lot of involvement with the police while caring for young people and we appreciate the way they have handled situations. We have never had an instance of a child being given a criminal record while in our care. The police would rather give advice to the child and avoid a criminal record.*<sup>272</sup>

Evidence from young people about their experiences with the police has been very mixed. Some young people have told the review that they have been treated well by the police and have witnessed them treating other vulnerable young people well. However, as described under Outcome Four, some young people spoke in hostile terms about the police, particularly in relation to perceived prejudicial treatment on the grounds of race, as well as looked after status. Young people giving evidence to the review on 25 June 2015 spoke about occasions when the police had been called out to care homes because of an incident in which they had been involved. They reported excessive responses by the police and said that they felt that they were not listened to or believed:

*I got arrested last Sunday, and the police turned up, and I was like I'd done nothing wrong, and armed police turned up and had guns and tasers. And it was a fight... it was just over a spoon. Literally, because one of them was like getting quite in my face, and she was like 'I'm restraining you'... The police came and I got arrested for it, and I got a YRO for that. The police didn't even bother to listen to my side of the story, didn't even bother, just arrested me. Spent like 3 nights in the cells...*

Young person in care aged 15 years

*[They should] listen to your side of the story, before arresting you, instead of just listening to the care staff. Because every time I've gone for not guilty, I've always got guilty ... if it's evidence against the care staff. I've always got guilty.*

Young person in care aged 15 years

*I've had a similar experience when I was in one of my old care homes and the police had tasered me because I was being too violent, but I think what would make it better is if the police, the police don't know your background, not well, not well enough, so I think that they need to know about our background and what we're like, because if they don't then they're just going to carry on doing what they're doing.*

Young person in care aged 17 years

*Be a bit gentler, with just kids in general...I've had my shoulder dislocated by the police, my nose broken by the police...just after getting me to the floor, because I'm resisting arrest... Just be a little bit gentle.*

Young person in care aged 15 years

When asked what the police could do that would help when young people were angry, the young people responded:



*That they don't just turn up and say, they don't read you your rights ... and take the time to say, 'What's wrong? What can we do to calm you down?' ... When I got arrested the other day, I was like 'What are you even arresting me for?' ... The police basically don't listen to our side of the story, you know they're more likely to listen - because if I was the police I'd be more likely to listen to the care workers' side of the story as well, it's just natural instinct.'*

Young person in care aged 15 years

*You know what would be a good idea as well, yeah you know like, if a kid was kicking up in a care home, and the police round yeah. Instead of like locking them up yeah, you could like take 'em away for like half an hour or something or an hour just to calm 'em down and have a proper chat with them, and just get the police officer to explain how serious it is yeah, so they get it drilled in their head not to do it, you know what I mean, instead of charging with it. I think would be good.*

Young person with experience of care and the criminal justice system

### **5.2.7(a) Police detention**

Many respondents have raised concerns about the impact on looked after children and young people of being avoidably detained in the police station, or being detained for longer than necessary. This may arise because of delays in finding an appropriate adult to attend a police interview with the child, or because of the failure or refusal of the child's carers to collect him or her. Recently published research by the Howard League for Penal Reform even reports police forces as commenting that children's care homes use police detention as 'respite to cover staff shortages'.<sup>273</sup>

The Association of Child Psychotherapists is clear about the damaging consequences of police detention for looked after young people:

*Young people, under the age of 19 should not be held in police cells – wherever possible. Especially those who have been in the care system and are likely to push boundaries or alternatively close down emotionally, due to fear of or anticipated abuse and/or rejection.*<sup>274</sup>

The charity notes that difficult behaviour by children and young people, which may result from early life trauma, can be interpreted as obstructive and lead to a punitive response. They argue that training for the police and other criminal justice professionals about the impact of early life trauma would be beneficial in ensuring an appropriate and proportionate response to looked after children and other vulnerable children and young people.<sup>275</sup>

### **5.2.7(b) Responding to child sexual exploitation**

One foster carer expressed frustration about a lack of support from both the police and children's social care in protecting children from risky activities. She told the review:<sup>276</sup>

*The police are often unavailable and uninterested...*

*I reported a young person missing a 14yr old girl who had a history of drugs and sex and the local police didn't pass on the information to their child exploitation detectives even though I had provided an address ... that I later found out was known to the police.*

*Social services ignore underage activities such as smoking and sex. I raised my concerns at a multi-agency child protection meeting as the young person 14 was performing sex acts in return for cigarettes and drugs. The social worker's manager also at the meeting stated that the girl was underage to smoke and refused to allow the young person to have an alternative which put the child at risk.*

As Sunderland Youth Offending Service point out, this can lead directly to criminalisation:<sup>277</sup>

*Young people in care are at an increased risk of child sexual exploitation, through going missing, taking drugs, associating with adult offenders, all of which can result in the police charging young people for minor offences, such as drunk and disorderly, rather than treat these young people as needing care/help.*

### **5.2.7(c) Diversionary measures**

The 'tainting' effect for children coming into contact with the criminal justice system is well understood and this has been reflected in the development of a diversionary framework for out of court disposals for children and young people, most recently the youth caution system which came into force in 2013.<sup>278</sup>

Where the police have been called to an incident involving any child or young person, there is a clear expectation on them to consider a number of available options to divert that child or young person away from the criminal justice system, unless it is in the public interest for them to be charged or where the offence is indictable, requiring the authority of the Crown Prosecution Service to pursue any out of court disposal.<sup>279</sup> These options include both informal and formal disposals, broadly as follows:

- No further action
- Community resolution
- Youth caution
- Youth conditional caution.

There are other triage, bureau (especially in Wales) and local diversion schemes, and any of the above options may involve or operate alongside restorative processes which will differ in local areas. In Surrey, the Youth Restorative Intervention jointly developed by the police and youth support services has been used to good effect as part of informal community resolutions (see Appendix Two).<sup>280</sup>

Blaenau Gwent and Caerphilly Youth Offending Service argues that the introduction of Triage/Bureau restorative processes and out of court disposals help, and that a change in policing policy is essential for this.<sup>281</sup> They welcome the use of voluntary interviews in lieu of arrest and attendance at custody suite, but note that children will still need able representation.

They advocate restorative alternatives to charging - at school, in the community, at home or in care, and training workers in contact with children to use restorative practice to resolve issues. They maintain:

*One positive aspect of young people being placed in care is that they will generally have a trained appropriate adult who advocates for legal representation.*

The Pan Gwent Protocol to Reduce the Prosecution of Looked After Children is a good example of local joint working between children's social care, care homes, the police and other criminal justice agencies to protect looked after children from being drawn into the criminal justice system, using restorative approaches and a co-ordinated, multi-agency approach.<sup>282</sup>

The diversionary measures outlined above have contributed to the dramatic fall in first time entrants to the youth justice system.<sup>283</sup> The proportion of looked after children becoming involved with the criminal justice system has fallen only slightly since 2013.<sup>284</sup> However, pockets of good practice have led to significant reductions in places such as Norfolk, Leicestershire, Staffordshire, Surrey and Leeds (see Appendix Two).

The Magistrates' Association describes a range of measures that can reduce offending and reoffending before court proceedings are embarked upon, including the use of protocols and making a decision in good time about whether to prosecute, whether to go for an out of court disposal or whether court is necessary.<sup>285</sup>

#### **5.2.7(d) Crime recording**

The police have flexibility within the youth caution system to divert children and young people, including those who are looked after, away from the criminal justice system where possible. Local joint protocols to protect looked after children from criminalisation may offer further scope for diversionary measures. However, if an offence has been committed the police are obliged to make a record of this even if they decide no formal action is required. Where the disposal is a youth caution or youth conditional caution, this will entail a criminal record for the young person.

Where the matter is dealt with informally, by taking no further action or through a community resolution, this will not entail a criminal record for the young person. However, the police will be obliged to record a crime and this could be disclosed against the young person's name in an enhanced Disclosure and Barring Service check. The only exception to this would be if the incident occurred on school premises, making it subject to the protocol for police recording of school-based incidents.<sup>286</sup> Under this protocol, the police are not obliged to record a crime where they are satisfied that the matter can be dealt with under the school's disciplinary procedures.

There is currently no such flexibility in crime recording for incidents involving children and young people in care, as discussed under Outcome One above. We welcome indications from

Charlie Taylor that his review of the youth justice system will consider what may be done to introduce further flexibility in how the police respond when they are called to minor incidents involving children and young people in care.<sup>287</sup> We believe the discrepancy should be addressed by the introduction of a protocol for the benefit of children in care homes similar to the protocol for school-based incidents. This would be welcomed by the Magistrates' Association who argue that the implementation of a national protocol of this kind may prevent cases coming to the youth court unnecessarily.<sup>288</sup>

#### **5.2.7(e) Support and advocacy for looked after children at the police station**

In his review of youth justice, Charlie Taylor has raised concerns about time spent by children and young people in police detention while they await an appropriate adult. Based on submissions to this review from police officers and parents of children in care, this problem appears to be particularly acute for looked after children. We support Charlie Taylor's proposal that the Home Office must improve the provision of appropriate adults where these are not quickly available from the child's own family and support networks.<sup>289</sup> Other mechanisms must also be considered.

The lack of availability of social workers to attend police interviews indicates a wider problem in terms of the consistent availability of trusted, competent adults to support each looked after child when they need it most. Clearly other trusted adults who know a looked after child well could perform this function, particularly the child's primary carer wherever possible and where a conflict does not arise. It would be preferable for every child to have more than one person who could be called upon. Additional alternatives might include an Independent Visitor or mentor. Serco suggests<sup>290</sup> all children in care and care leavers should have a dedicated 'key supporter' to act as mentor, advocate and champion, who sits outside statutory bodies, is not part of the child's 'mandated engagement' and can be child centred, using a model based on the principles of the Department of Health's National Standards for the Provision of Children's Advocacy.<sup>291</sup>

Several police forces have told the review of looked after children and young people remaining in police detention for longer than children in the general population because no one has come to the station on their behalf. This problem concerns the lack of availability of social workers and carers who know a child well and are able to support them at the police station and in court, as well as an apparent lack of training in what that role entails. There is also a clear conflict of interest where a carer acting as an appropriate adult represents a residential children's home where an alleged offence of criminal damage or assault has taken place.

An appropriate adult has described to us the difficulties arising where care home staff attend as appropriate adults for children who face charges for an offence against the care home. This raises the need for children in care to have access to an independent advocate who knows them well, to support them at the police station and in court.

A police officer told us:<sup>292</sup>

*[In] the custody suites of ... the child most likely to be held overnight without interview, or the child most likely to be held for a longer period is the "looked after child" in residential care. This is due to our need to source an appropriate adult, (that is most likely not family or friends). Delays for those in residential care particularly over night can be due to lack of staffing, - and the want to bail a child in residential care can often be complicated by a care home provider refusing to have them back where the offence is levelled at staff or damage caused at the home itself. The role of the care home can be further complicated where they are a private provider contracted by a local authority.*

*We continue to work with the PCC in ... to offer a voluntary scheme that provides appropriate adults and this continues to improve but I feel there must be greater control by local authorities, I fear it is too easy to leave a child in a cell, in relative safety and comfort when actually they must and are entitled to be accommodated elsewhere.*

*The additional time perhaps spent by the looked after child in police cells may certainly contribute to compounding their own mindset about who they are and the value they pose to society and risk furthering the cycle of offending and reoffending.*

This police officer provided an example illustrating her points:

*"We arrested a 14yr old around 1900hrs on Saturday for a breach of bail, he lived in a care home. With a breach of bail we knew he would be with us until appearing at ... youth court on Mon..."*

*"We notified the care home early on in his detention and followed this up with a phone call to them at 0900 on Sunday..., we invited someone from the care home to attend and see him, just for a visit, we recontacted the home a couple of hours later to be told that they would be unable to visit as they didn't have a driver. They gave us another number for his mother and although we rang to leave a message, she didn't recontact us.*

*"This just feels really sad, that it looks like no one was bothered. The child will be old enough to also feel he has been abandoned by society and I fear we will have little chance of changing his offending behaviour if he perceives himself to be written off."*

A recently retired volunteer appropriate adult<sup>293</sup> who spent time in care during his childhood described the positive impact that an appropriate adult can have, referring to a number of occasions when he assisted children who had been arrested for minor offences in care homes. For example:

*One child was arrested for breaking a drinking glass in temper. The story he told me was that for their evening meal he had been given chips three days running, on the fourth day he wanted something different and when he was told to take it or leave it he broke the*

*glass in temper, police called and was arrested. Common sense prevailed at the police station and after interview was released without charge.*

This respondent also described an occasion when he was told by a care worker from a local private children's home who was acting as appropriate adult for a child from that home, that it was their policy 'not to allow their children to call a solicitor'. He suggests that "although children/juveniles should have their carer as an [Appropriate Adult] they should also have an independent Appropriate Adult present to make those important decision in their best interest and not in the interest of the carer or the home."

An adoptive mother pointed out that care leavers may need the support of an appropriate adult after they become 18, due to their vulnerability. She felt that her son had benefited from her support, and that equivalent support would not be available to most care leavers:

*It was only that I was able to insist that my son needed an appropriate adult when he was older than 18 that helped my son at police interviews. He needed an advocate who knew that his receptive language was poor. He would have said that he had understood when he did not and could have been charged with more serious crimes if I hadn't been there for him post 18...I managed to keep him out of court. (Submission 100)*

### **5.2.7(f) Conclusions**

The response of the police to looked after children and young people is fundamental to preventing offending and diversion from the criminal justice system. Strong leadership from the National Police Chiefs Council is leading to improvements in relations between children and young people and the police, and this work includes a specific focus on reducing the unnecessary criminalisation of looked after children and young people. Strong leadership by some police forces working closely with local authorities and care homes has produced good results. However, these practices are not implemented consistently across the country.

Young people responding to the review have in many cases presented a negative view of the police and expressed a view that they are subject to negative stereotyping by the police due to their looked after status. Young people from minority ethnic groups have said they believe they are discriminated against by the police on the grounds of their racial heritage. A number of young people have said that it would help if the police listened to children and young people and de-escalated situations rather than responding with what they perceived as excessive force.

Some respondents have complained that reports of child sexual exploitation are not taken sufficiently seriously by the police. Looked after children and young people have expressed doubts that their reports of being victims of crime are taken as seriously by the police as reports of their own criminal behaviour.

Police discretion to use community resolutions and diversionary measures within the youth caution system and other measures available in local areas is valuable in diverting looked after children and young people from the criminal justice system. However, there is a lack of flexibility for the police in crime recording, even where an incident leads to no further action. The Home

Office must put in place a crime recording protocol for incidents taking place in children's residential care homes similar to the protocol in place for schools.

Leadership from both the Home Office and police and crime commissioners is required to give clear direction to police forces to work with local agencies to reduce the unnecessary criminalisation of looked after children.

Police forces making submissions to the review have raised serious concerns about looked after children and young people spending longer in police detention than other young people, either because of delays in attendance by an appropriate adult or because they are unable to return to their care placement and alternative accommodation has not been found by the local authority. Other respondents have raised doubts about the ability of some appropriate adults to offer support and independent advocacy to looked after children at the police station, particularly where staff from care homes take on this role in respect of young people facing possible charges for an offence in that care home, raising a conflict of interest.

### **5.2.8 The treatment of looked after children by the Crown Prosecution Service**

The Crown Prosecution Service's guidance on the treatment of looked after children and young people in care homes, and its 10-point checklist,<sup>294</sup> have been mentioned by a number of respondents as helpful tools in preventing the unnecessary criminalisation of looked after children and young people for minor offences. CPS officers should receive information on certain matters before a decision on charge will be made by CPS reviewing lawyers in relation to alleged offences by children in care homes. These include, amongst other matters, the disciplinary policy of the home, why the police have been involved and whether this has been agreed in the policy, and the home's explanation regarding their decision to involve the police. In its submission to the review, the Crown Prosecution Service (Submission 201) refers to its Legal Guidance on Youth Offenders,<sup>295</sup> which includes guidance for prosecutors on the considerations to be taken into account in relation to alleged offending by looked after children in children's homes. The CPS points out that some of the same principles may be useful when applying the public interest test of its Code to offences committed by looked after children outside care homes.

The CPS has also told the review that it is reviewing and updating its Youth Offender Specialist Training course and that it has established a new list of CPS Area Youth Justice Co-ordinators for each of the 13 CPS areas. The 2013 HM Crown Prosecution Service Inspectorate thematic follow-up review of youth offender casework acknowledged the substantial progress made by the CPS in reviewing and updating its response to looked after children, and reinforced the need to ensure the guidance is followed at the pre-charge decision stage.<sup>296</sup> Some have suggested the CPS guidance should be extended to cover all looked after children and young people. Many submissions from magistrates suggest that the guidance is not always followed.

We conclude that the Crown Prosecution Service's guidance on the treatment of looked after children and young people in respect of incidents in care homes offers a helpful tool in preventing the unnecessary criminalisation of looked after children and young people for

minor offences. However it appears the guidance is not always followed. We recommend that the Crown Prosecution Service should conduct an audit of local practice to establish whether the guidance is being followed and, if not, take measures to correct this which may include additional training for CPS Youth Offender Specialist prosecutors and measures to monitor progress on an ongoing basis. We also recommend that the guidance should be extended to all looked after children, regardless of the setting in which the incident took place.

## 5.2.9 The treatment of looked after children and young people in court

### 5.2.9(a) Introduction

The review has heard from many magistrates, young people and others discussing the experience of children in care who appear in court (Staines, 4.12, p.22). While some have argued that it would be helpful to raise awareness amongst magistrates of the reality of life for children in care, the National Association for Youth Justice has commented that sometimes a magistrate may be the only independent adult of influence in the life of a child in care who comes before them<sup>297</sup> and, as such, may be instrumental in upholding their rights. Some young people felt their care history had led to them being treated more leniently.<sup>298</sup>

One magistrate commented:

*In my experience the courts are extremely reluctant to sentence youths to [Detention and Training Orders], and will try almost everything else first. It does need to be recognised however that some youths are completely unwilling to comply with community orders, and/or are extremely violent, and the victims are also often young people too. If an offender considers that he/she has 'got away with it' and then boasts on social media to that effect, it shuts down other youths from willingness to give evidence.<sup>299</sup>*

She goes on:

*The issue is earlier in the process – more supportive and therapeutic care in the care homes, more consistent and longer term relationships with social workers, and a clear protocol to avoid pressing charges for relatively minor offences.*

Many respondents are positive about the approach taken by magistrates, although one young person commented:

*Well basically, I think yeah, that when you go court yeah, someone who is obviously going through a hard time in care, they don't really look into their past or anything to see what they've been through yeah. I'm not saying just because they've been in care they shouldn't get a punishment, obviously punish them, but take into consideration, yeah, that they grew up in care and they've been through loads of trauma and everything and try and give them a punishment that will help them rehabilitate, if you know what I mean, so stop them offending more.*

Young person with experience of care and the criminal justice system



Croydon Council comments on the other hand:<sup>300</sup>

*Magistrates are understanding of the vulnerabilities and needs of children looked after and are proactive in trying to avoid criminalising them.*

Sunderland youth offending service argues that youth offending teams need to educate courts about looked after children's wider vulnerabilities such as child sexual exploitation and the difficulties in resourcing appropriate placements:<sup>301</sup>

*So magistrates are aware of young people's individual needs when ... sentencing.*

They also point out that looked after children need full pre-sentencing reports and comment:

*...all efforts should be made to ensure that all Looked After placements are sought before resorting to the use of custody for low level / minor offences or breach of statutory court orders, including the use of [Intensive Supervision and Surveillance].*

The Magistrates' Association comments that magistrates in the youth court are aware of the circumstances of looked after children, including the impact of abuse and neglect; the likelihood of victimhood; lack of role models, untreated speech, language and communication needs and possible presentation as uncooperative/aggressive, as well as health and education and low income.<sup>302</sup>

In court, the Magistrates' Association argues that the following factors make a positive difference for looked after children and young people:

- Prosecutors who understand how to speak to young people
- Knowledgeable defence solicitors
- Defence solicitors who can engage with young people
- Magistrates and legal advisers who can engage with young people
- YOT officers who have met with the young person, can speak with knowledge about them and can offer a suitable disposal
- Carer or social worker who knows the young person
- Effective liaison between court and children's services
- Increased problem solving approach in the youth court.

The Magistrates' Association reports that there are good local examples where youth panel chairman has regular discussions with YOT, police, Crown Prosecution Service and care homes/agencies.<sup>303</sup> They point out the lack of concrete data and have told the review that they would support any initiative by the Youth Justice Board to collect such data. They would also welcome work towards identifying children at risk of criminal behaviour, picking up earlier on drug misuse, and supporting greater involvement by Independent Reviewing Officers.

Some comments from young people reveal a possible lack of understanding of court proceedings. When asked by a review panel member, ‘When you have been to court, have reports been written about you and, if so, were they helpful and fair?’, a young person responded:

*Well I’m not too sure if I’ve had reports written about me, but I think there was reports written about me considering I have got a 18 month youth offending order, but I’m not sure if there were reports written.*

Young person in care

The Association of Child Psychotherapists notes:

*Interpreters may well be needed, not only for those for whom English is not their main language but also for those who feel unable to understand the system and what they are being asked to do... Children and [young people] with attachment disorders and significant traumas find it very hard to sit still and have difficulty with processing information and make sense of it. Some young people come out of court and when I ask them how it went, they reply that they don’t know as they couldn’t hear what was being said.<sup>304</sup>*

One former Inner London Court Youth and Family Court Magistrate comments:

*Lack of continuity of involvement is a major problem. In the youth court, for example, it would be better and should be possible for those in care to appear before the same magistrates at each hearing. It should be easier to involve carers and the same carers should accompany the child at each hearing.<sup>305</sup>*

Another magistrate commented:<sup>306</sup>

*While recognising that maintaining the independence of the judiciary is of paramount importance, I feel that regular judicial monitoring of a young person post-sentence by the same judge or magistrate would allow that young person to identify with a figure of authority whom they see on a regular basis.*

It would appear sensible to consider developing a system which allows (or encourages) a judge or magistrate to review a young person’s progress after sentence on a regular basis.

Blaenau Gwent and Caerphilly Youth Offending Service argues that informed oversight by magistrates is essential, and that magistrates should have the power to refer cases back to the Crown Prosecution Service for alternative disposal encompassing a restorative approach.<sup>307</sup>

### **5.2.9(b) Support and advocacy for looked after children in court**

As Nottinghamshire City Council’s Children in Care/Care Leavers’ Council points out:

*It is important that young people attending the police station or Court attend with someone they know well, who is able to provide up to date info.<sup>308</sup>*

One young person aged 25 years with experience of care and the criminal justice system commented that looked after children and young people are disadvantaged in court because: “just because they are in the care system it seen to be they have no family background of good character forgetting they are not with their family and that alone is unfair.”

Many magistrates have told us of looked after children appearing before them either unaccompanied or with someone who knows very little about them and offers them little or no support. Some respondents have indicated that this puts looked after children and young people at an immediate disadvantage in the proceedings, as it leaves the court without the information required to make fully informed sentencing decisions. One recently retired youth magistrate in London commented:

*From my experience I would suggest that the Youth Courts, may, unwittingly, be discriminating against young people who are in care. Although [looked after children] appear in the courts charged with very similar crimes to those of their peers who live within their family, the court may treat them differently. This occurs when the social worker or carer, accompanying the young person, has nothing positive to say in their mitigation and has no knowledge of their progress within the Home or their plans for the future. This absence of context makes sentencing harder and is likely to lead to a harsher interpretation of events and the imposition of a tougher sentence than would be the case with full information from supportive parents.<sup>309</sup>*

Young people commented:

*I've been [to court] 11, 12 times, and every time I've not had no-one there, they just got out of the cells and gone straight there or they've got my appropriate adult to be there, because my social worker wouldn't even know.*

Young person responding to the review

*I've had a similar experience of when I was in court. The day I was supposed to get sent down, I didn't, but it's the same thing, my social worker wasn't there for me. My Dad and the carers, but I never saw my social worker once that day. She's never ever been to court with me.*

Young person responding to the review

One magistrate commented on the conflict that can arise where a child is accompanied by a carer from the home where an alleged offence has taken place:<sup>310</sup>

*The child is brought to court with an 'appropriate adult' also there for interview by the police. It is completely unacceptable that this person is a care home worker when the care home is the alleged injured party in a criminal damage or assault case. The appropriate adult should be the child's social worker, if no other person fits this role (sometimes an extended family member might be ideal, but in my experience this is unusual). In many such cases the social worker is not in court. Adjourning the matter for the social worker to turn up does not always work, and this is especially so for those placed in care out of area, often London boroughs placing children in homes in the home counties, presumably for cost reasons.*

*For example, in one such case, adjourned for the social worker to attend, but no social worker arrived, I explored how to progress this and after some advice, rang the assistant director of social services in the commissioning London borough to ask why. They were unaware of the court case although the social worker was seeing the child at least monthly. It was unclear whose responsibility it is to tell the social worker, and it seems that the care home might have an incentive not to do so, as the consequence might be the removal of the child to a placement elsewhere and hence the end of that revenue stream.*

Statutory guidance currently states that it is good practice for a child's social worker to accompany them to court. Evidence to this review reveals that this practice is not consistently complied with and that this has an impact on the proceedings, including making sentencing more difficult. We conclude that social workers' attendance at court should be made a requirement within the statutory guidance. This should not preclude any other adult also attending who knows the child well (such as their primary carer or a family member).

### **5.2.9(c) Obtaining bail and complying with bail conditions**

Support from children's social care (in England) and social services (in Wales) is essential for looked after children and young people to be eligible for bail and to comply with their bail conditions. Some review submissions have indicated this support is not always made available, putting looked after children at a disadvantage.

One respondent to the review, Shazia, described her foster brother's experience of entering custody, in part due to housing difficulties and failure to attend appointments. This case illustrates the problems that can arise where communication between agencies is not effective. Shazia notes that her foster brother's probation officer was unaware of his care status until she contacted probation services (all names have been changed):<sup>311</sup>

*Social Services removed Akil from my parents' [foster] care in the summer of 2013. This has had a detrimental effect on Akil. Since then he has been in prison at least three times. Mainly he returns to prison for not keeping with his bail conditions (meeting with his probation officer). Since Akil left my parents' home he has been in secure accommodation and when leaving prison he is provided with accommodation in a homeless shelter, where he refuses to stay because of the violence. These shelters also have older criminals and he is scared of them because he has been violently attacked. He still has the scars from his last assault. As he does not stay at the accommodation provided he does not receive the mail from the probation services so he is not aware of the appointments he has to keep, therefore in breach of his bail conditions.*

*We as a family are in some contact with Akil now even though the social services have threatened to remove the other teenage boys who my parents currently foster if Akil visits their house. However Akil is sleeping rough; is unaware of his rights and the support that can be available to him. I briefly spoke with Akil's probation officer recently; he was completely unaware of any of Akil's history. The probation office did not know Akil had been in care since he was a few months old and that he had no contact with his*

*biological family. I had expected the social services would have still been involved or at least passed on the relevant information on to the probation service. They had not. The probation office felt knowing Akil's history and living situation was crucial to helping. Akil only turned 18 this year; he is still a child and requires care from everyone including social services.*

Some respondents discuss challenges faced by looked after children on bail as compared to other young people. A secure children's home manager reports that, whereas a child living with his birth parents is likely to be bailed to return home unless he has committed a very serious offence, looked after children in residential care may well end up in secure accommodation (on a welfare order) despite being bailed. He takes an example of a child in private residential care who has assaulted a staff worker and smashed up his bedroom:<sup>312</sup>

*[He] is likely to have his placement terminated. Most local authorities use a vast range of commissioned homes, which is run privately and for profit. These homes do not have an obligation to manage any particular child. They are likely to give notice to the local authority to move the child to another home. Often requested immediately, saying that the bedroom is uninhabitable or that the staff are at risk from the violent child. The local authority have no choice but to move the child.*

*The child in care then has to have a new home provided. But the local authority struggles with finding an alternative placement due to the violent history of the child and a lack of cooperation from private providers – the child is very hard to place.*

*With no foster placements or residential placements available and a recent history of violence – the local authority seek a Secure Welfare Order under S25 1989 Act. The young person finds themselves in secure accommodation due to the fact that they are a child in care.*

#### **5.2.9(d) Obtaining and complying with community disposals**

Young people responding to the review have commented that they have had inadequate support from the local authority in undertaking community sentences. Practitioners have commented on the practical difficulties that can arise, for example where young people are not supported to get to appointments, raising the risk of non-compliance with orders and returns to court.<sup>313</sup>

The review has heard evidence of good practice in some areas, including the Clear Approach programme run by the Care Leavers' Association in partnership with Greater Manchester Probation Trust and Leeds youth offending service.<sup>314</sup> Dr Claire Fitzpatrick argues that "a dedicated support service for care leavers, such as 'Clear Approach', could be of great benefit to all parts of the criminal justice system, and help to reduce the likelihood of reoffending amongst those who have previously been in care."<sup>315</sup>

#### **5.2.9(e) Conclusions**

It is clear from submissions to the review that there is more to be done to ensure that looked after children and young people fully understand court proceedings and receive fair treatment in court. Evidence submitted by the Magistrates' Association, individual

magistrates and others suggests that, while some magistrates may have good knowledge of the needs and characteristics of looked after children, may understand how to engage with children and young people, and may take great pains to ensure that their circumstances are taken into account, this will not always be the case.

Magistrates' efforts will in any event be undermined where other professionals in court (including prosecuting and defence solicitors) do not engage effectively with vulnerable children and young people facing proceedings. Perhaps most crucially, many magistrates have discussed the disadvantage faced by looked after children and young people who attend court without support and advocacy by an adult who knows them well and is able to represent their interests, such as a social worker. Many magistrates have also told the review of their frustration when cases come before them which appear to fall outside the Crown Prosecution Service guidance on the treatment of looked after children, in respect of minor incidents taking place in children's homes.

Children's social care (in England) and social services (in Wales) and youth justice services should work closely with the courts at local level to ensure that magistrates and other legal professionals understand the needs and characteristics of looked after children and young people and are able to engage with them effectively in court. It is also critical that looked after children and young people should have proper support and advocacy in court from someone who knows them well, usually a social worker. There are also questions about the quality of legal representation for some looked after children and young people. Finally, we consider that magistrates should have the power to adjourn cases for review by the Crown Prosecution Service where it appears proceedings have been brought which clearly fall outside the CPS guidance.

Strong support is required from children's social care and social services and youth justice services to ensure that looked after children and young people do not suffer a disadvantage compared to other children and young people, in securing bail and complying with bail conditions, as well as in sentencing. This relates not only to support and advocacy in court, and ensuring that there is a full pre-sentencing report, but also to providing suitable accommodation and robust community sentencing options that will command the confidence of the court.

#### **5.2.10 The treatment of looked after children in custody and planning for resettlement**

We take this opportunity to restate the important principle that custody should only ever be used for children and young people where there is no other realistic alternative. Recent years have seen a welcome fall in the number of children and young people in custody. The numbers of looked after children in custody have also fallen but at a much slower rate. These numbers should, and could, come down further, and the experience of looked after children in custody should be improved.

In its submission to this review, Inquest cites the tragic deaths of a number of vulnerable young people, including two looked after children who took their own lives in custody whose stories are told below.<sup>316</sup> The circumstances of these children's deaths serve as a powerful reminder of

how failures well before children arrive in custody can contribute to their extreme vulnerability, as well as underlining both the importance of avoiding custody wherever possible and, where this is not possible, ensuring that the institutions charged with the care of vulnerable looked after children are able to keep them safe:<sup>317</sup>

*Ryan Clark was 17 years old when he was discovered hanging from the window bars in his cell at Wetherby Young Offenders Institution on 18th April 2011.*

*Ryan had been in Leeds Social Services care from the age of 16 months and entered Wetherby as a 'looked after child'. There was no consistency in Ryan's care, having been subjected to a variety of Social Workers and Social Work students throughout his time in care.*

*During his time in Wetherby, a prison officer thought he would benefit from a referral to Child and Adolescent Mental Health Services but at no point was this ever followed through.*

*On 3 April 2011, Ryan had an altercation with a prison officer. This appears to have arisen from a misunderstanding but resulted in an adjudication, loss of privileges and transfer to another wing where Ryan felt more vulnerable. The adjudicating Governor did not consider Ryan's explanation of events relevant or consider suspension of the punishments.*

*Wetherby operates a Person Officer Scheme but at no point was one assigned to Ryan nor was there any engagement with him. This was in spite of his vulnerabilities as a looked after child, first time in custody and the concerns he expressed of intimidation by other prisoners.*

*The inquest had heard from Jane Held, Independent Chair of Leeds Safeguarding Board, that the system failed Ryan, as a 'looked after' child. She said that during the last 12 months of his life, there was no single consistent professional responsible for him, his housing situation prior to his remand was dire, his care plan was insufficient, and he was treated as troublesome rather than troubled, vulnerable and emotionally damaged.*

Inquest also cites the influence of failings in providing therapeutic services and changes in staff in the life of Alex Kelly, who was 15 years old when he was found hanging in his cell at HMYOI Cookham Wood on 24 January 2012. He died the following day. Alex was a troubled and vulnerable child. He had suffered serious sexual abuse and by age five he was placed into the care of Tower Hamlets children's services. Over time his behaviour started to deteriorate. Alex was also identified as having complex needs including ADHD, attachment issues and educational difficulties. Despite his complex needs Alex had a total of eight different social workers from the age of five until his death. In October 2011 Alex received a 10-month custodial sentence. Inquest reports:<sup>318</sup>

*On the evening of 24 January 2012 Alex was found hanging from the locker in his cell by his shoelaces. The jury at the inquest into Alex's death identified a number of failings within Cookham Wood YOI and more significantly with Tower Hamlets Social Services. This included the failure to allocate a named social worker, which hampered essential communication between statutory agencies; and failures to address Alex's specific mental health needs or provide an adequate level of support for a vulnerable looked after child.*

*In making her recommendations, the coroner also expressed concern about the conflict in the response to Alex's self-harming behaviour, commenting that "specific acts by Alex were seen as obstructive/challenging behaviour rather than sign of distress or a means of communicating that he needed help.*

There can be no more powerful incentive to protect looked after children from unnecessary criminalisation than to hear the stories of the lives and deaths of these extremely vulnerable looked after children.

Inquest reports that many of the young people whose deaths they are involved in investigating are care leavers or have had disrupted early lives leading them to live away from home.<sup>319</sup> They note the under-reporting of care status, or former care status, when entering prison, and they argue that staff in the secure estate lack skills, knowledge and experience in relation to care leaver status in particular.

Inquest concludes that there is a fundamental lack of understanding in the criminal justice system about how to respond to extremely vulnerable children and young people. They call for better training for sentencers about the needs of very vulnerable people, and their options under mental health legislation. They also note that inquests do not consider individuals' care background and they recommend that the scope of investigations into deaths in custody should be widened and an oversight body should be established to collate and disseminate the findings of inquests and ensure that lessons are learned.

#### **5.2.10(a) Wider concerns about children in custody**

The BBC's Panorama programme, broadcast in January 2016, uncovered shocking levels of abuse by staff of vulnerable children in Medway secure training centre<sup>320</sup> and has led to a number of arrests and calls for a public inquiry<sup>321</sup>. This follows recent inspection reports which have revealed serious concerns about conditions in parts of the secure estate, including unacceptably high levels of violence in some establishments<sup>322</sup>, although the most recent report on Medway secure training centre had assessed it as a good centre with outstanding features<sup>323</sup>. Reports of increased violence are of particular concern for looked after children, given their greater vulnerability, as a group. The deterioration in conditions in custody could lead to increased reoffending by children, not least because challenges in maintaining control reduce the chances of doing effective offender management work in custody. We welcome Charlie Taylor's assertion that his review of youth justice will include a fundamental rethink of child custody and the use of smaller, local units.<sup>324</sup> The focus on



engagement in education while in custody is positive, although the nature of provision needs to be clarified. However, in light of the prevalence of mental health need amongst children in custody, particularly those who are looked after, we consider it is essential that such units (including remand units) should be psychologically and trauma-informed environments, as recommended by the Centre for Mental Health.<sup>325</sup>

Levels of restraint and the use of isolation have been raised as concerns by some respondents to the review.<sup>326</sup> Some have also described difficulties in communication between custodial establishments and outside agencies with responsibility for looked after children in that institution, for example a failure of staff in the institution to tell the local authority that a child in their care has been placed in isolation.<sup>327</sup> In light of the extreme vulnerability of children in custody, which can only be heightened for looked after children, these concerns should be received with the utmost seriousness and urgently addressed by both children's social care services and secure establishments.

#### **5.2.10(b) Worse outcomes for looked after children**

Statistics published in 2015 by HM Inspectorate of Prisons show a worrying disparity between the experiences of looked after children and young people in custody and those who are not looked after.<sup>328</sup> Some of these facts are reproduced in Appendix Three. These findings are reflected in what children and young people told the review about their experience of custody (see page 13).

A social work professional described to the review some of the challenges in working with young care leavers in custody:<sup>329</sup>

*When young [care leavers] are in custody, let's treat them differently. I have one young man in prison who is problematic (mental health problems, destructive behaviour etc) and he has been in four prisons in the last two months – one prison officer told me that it's common practice to 'trade' prisoners as no-one wants the difficult ones. Communication is also problematic – he's often been moved before he's even been allocated a Supervising Officer so I can't find out how he's doing. Because he's been convicted his Probation Officer only has to see him once a year. He has had no visits from family or friends since his conviction. If prisoners are kept on an Induction Wing or Vulnerable Person's wing they often can't access education unless they enter the main wing, and they're too vulnerable to do that. And one prison told me they can't get work in prison unless they have a level 1 qualification! No education = no work = boredom = more problems.*

This respondent suggests introducing a system of university students mentoring care leavers in prison as part of their courses.

A retired community nurse with CAMHS who grew up in care comments:

*Sadly the custodial side of the youth justice system inherit the problems that should have been prevented by the non-justice sector such as social services, health (CAMHS) and voluntary sector. Once a young person is in the justice system it is very difficult to get out of it.<sup>330</sup>*

A secure children's home manager argues:

*Many children in care that are placed in YOI or STC establishments aged 15 or 16 would be better placed in Secure Children's Homes, where mental health and educational provision are much better than YOI. Children in Care often have education gaps in history and needs additional Camhs support, and these are very limited in YOI establishments.*<sup>331</sup>

One independent social worker reflected that:

*...for some young people secure care provision can be the first time that they have felt safe and contained and they can be placements which give a young person a chance to stop and begin to repair. But this must be accompanied by the right regime and by a commitment to the time it takes working at the young person's pace.*<sup>332</sup>

Social workers placed in young offender institutions told the review about the benefits that their role can bring and the particular difficulties that looked after children in custody continue to face. These social workers consider that their influence helps the custodial regime to become more child-focused, but that there is a long way to go in achieving the necessary cultural change and improvement in skills. One commented:

*It's the regime that takes priority sometimes when actually the child should do.*

These social workers told the review that they frequently experience difficulties in contacting local authority social workers to seek support for looked after children, trying to get pocket money for children from the local authority, and particularly in preparing for resettlement. The view of these professionals was that 10 days is not enough notice to prepare for resettlement and that even this deadline is often not met. There was good practice in some places, for example in one local authority where a vulnerable children's panel ensured that plans were made in advance. However some YOI-placed social workers reported that accommodation details may not be confirmed until the day before a child's release, or even midday on the day of release in one case, and that they had been told that this was due to the cost of keeping a placement open before a child's release. YOI-placed social workers reported that this has a detrimental impact on children, not only because it makes it impossible to plan for engagement in education or employment on release, but also because of the anxiety it causes while young people are in custody. This means, for example, that although child and adolescent mental health services should be available quickly in custody where needed, young people may not be able to engage with them because they are preoccupied by worries about where they will be living after they are released.<sup>333</sup>

### **5.2.10(c) Support in custody and planning for resettlement**

Many respondents have talked about the crucial need for ongoing support from children's social care (in England) and social services (in Wales) when children are in custody, as well as advance planning for resettlement. Examples of good practice in custody have been described in relation to this.<sup>334</sup> However, some young respondents to the review have told us that they have felt forgotten about in custody and have not even been visited by their social worker.

The review heard from Everton in the Community about their ‘Safe Hands’ Offender Resettlement Project, an award winning initiative that supports young people aged 14-25 in the transition from youth custody back to their communities, including children who have spent time in care:<sup>335</sup>

*It has been widely recognised that there needs to be proper co-ordination between custodial facilities and the community – between the statutory, voluntary, community and business sectors – and necessary information must be shared appropriately between them. However, it is all too common that this does not happen effectively and a young person can be left with large gaps in provision which increases their vulnerability or reaffirms that they are not valued.*

*Safe Hands provides a strong ‘brokerage’ function to establish working partnerships across all sectors to jointly plan and deliver the required range of support. This ensures that young people continue to receive the service they need and deserve.*

In the first three years of the programme’s operation, 79% of participants have not reoffended within their first year of release compared to a national average of 68% of young people reoffending within a year of release from custody. Everton in the Community have recently launched a new project, ‘Breathing Space’, to help children in care to stay out of trouble.

A Looked After Children Education Service manager suggested that local authorities should “guarantee an apprenticeship and training to any young person from care leaving custody”. He also questions why we do not “boost education and training whilst young people are in custody”, asking, “Why can’t the [looked after child] population in custody all have access to online classes to prepare them for public examinations?” and asks, “Is prison education assessed by Ofsted?”<sup>336</sup>

The Welsh Local Government Association raises a concern that, where a child is in custody, it is a challenge for the home local authority to maintain contact over a long distance and to achieve reintegration after release.<sup>337</sup>

The British Association of Social Workers argues that more research is needed about young people in young offender institutions (YOIs), in particular whether children in care once convicted are more likely to go to a YOI than other children convicted of the same offence at the same age. They suggest there is a need to examine the life histories of young people when sentenced, including when came into care and their previous experiences. They add:<sup>338</sup>

*It remains possible that the number of children whose chances of custody would have been higher if they had not come into care is greater than the number whose prospects of a custodial sentence have been increased by their care experience.*

Essex County Council argue that prisons are making less time available for external visits so it is hard to undertake social work visits and reviews: sometimes just 30 minutes every Thursday. This makes it hard to protect the child and plan for release.<sup>339</sup>

The Family Rights Group advocates more purposeful work with young people and their families to enable engagement with family networks after release from custody, such as the Reconnect FGC Service in Leeds.<sup>340</sup>

Essex County Council report that they have a strong focus on joint practice between the YOT and Divisional Based Intervention Teams (DBit) on reunification work to reunite families. They advocate using the time that looked after children are in custody to work intensively with their families. They have evidence that 50% of young people in contact with the service have returned to live with their family network after release (where they were in a reactive care placement before sentence).<sup>341</sup>

Blaenau Gwent and Caerphilly YOS argue that support must continue during custody.<sup>342</sup> Resettlement and reintegration partnerships exist in some areas of Wales, including review of placements in and out of the youth offending team area to ensure that effective oversight of services and interventions contributes to effective resettlement. It can help to hold providers to agreements to offer support.

In July 2014, resettlement services at Hassockfield secure training centre were judged outstanding by Ofsted. Serco, who ran the centre before its closure later in the same year, comment that resettlement needs to be at the forefront of practice in child custody, with robust transition planning embedded in the culture of secure institutions and comprehensive assessment processes focussing on holistic needs of young people.

In its 2015 thematic review of children's resettlement services, HM Inspectorate of Probation gave an example of where good planning made a clear and tangible difference to a looked after young person, Afzal, who was looked after by the London Borough of Hammersmith and Fulham.<sup>343</sup> Afzal had been the victim of violent abuse from his father and was thought to be suffering from post-traumatic stress disorder. He was convicted of a knife crime and sentenced to custody. When he received the sentence, children's social care services paid a retainer to keep his previous foster care placement open for two months prior to his release to ensure that he could return there. This ensured that the young person knew exactly where he was going well in advance, and was able to prepare himself and plan for his future. It also allowed agencies to have other services in place in the community. Following his release, the young person had not reoffended, had complied with his supervision, maintained his accommodation and was engaging fully in counselling.

#### **5.2.10(d) Conclusions**

Highly effective communication is required between children's social care services, youth justice services and secure establishments to ensure that looked after children and young people are well supported while in custody and that effective plans are made for their resettlement. Submissions to this review suggest that, while there are examples of good practice, this is often far from the case and that looked after children and young people suffer a disadvantage while in custody and on resettlement compared to other children and young people in custody. This is reflected in data published by HM Inspectorate of Prisons as well

as evidence from young people to this review. We are concerned about reported failures to keep placements open for looked after children and young people while they are in custody, creating anxiety for children and increased instability upon resettlement.

The deaths of Ryan Clark and Alex Kelly, amongst others, highlight only too painfully the extreme consequences that can arise from a failure to protect vulnerable looked after children. Failures in the system well before children arrive in custody, as well as their experiences in the secure estate, can lead to devastating outcomes. We can and must do better. Custody should only ever be used for a child where there is no realistic alternative. Where custody is the only option, it should be provided in small, local units which are psychologically and trauma-informed. Staff should be highly trained and well supported to identify and meet the needs of very vulnerable children and young people, including those who are looked after. Communication between children's social care and social services, youth justice services and the secure estate should be state of the art, in order to offer the best possible protection for children at what may be a highly distressing and isolating time in their lives. Children's social care and social services must offer strong and consistent support to their looked after children in custody, including through resettlement planning.

Based on these findings we make the following recommendations:

## **Recommendation 8 – Fair treatment and proper support for looked after children from criminal justice agencies**

- 8.1 All criminal justice agencies (youth justice services, the police, the Crown Prosecution Service, the courts and secure establishments), working closely with children's social care and social services, must ensure that they know when they are working with a child in care, understand their vulnerabilities and take a strategic approach to ensuring that looked after children are fairly treated and well supported throughout the criminal justice process.
- 8.2 The police should not interview a child in custody, charge a child with an offence or administer an out of court disposal, without knowing whether that child is looked after and, where the child is looked after, without consulting their parent local authority. Where a looked after child is interviewed in custody, charged or receives an out of court disposal without these steps having been taken, the police should be required to explain the reasons to the court in any later proceedings.
- 8.3 The Crown Prosecution Service should review the operation of its guidance on the prosecution of looked after children in residential care in order to satisfy itself that both the letter and spirit of the guidance is being followed consistently and in all cases and, as part of this process, consider extending the guidance so that it covers all looked after children.
- 8.4 Where it appears that Crown Prosecution Service guidance for the treatment of looked after children has not been followed in bringing a prosecution, magistrates and judges should be able to stand a case down to allow the prosecution and defence to engage in a conference outside the courtroom, in an attempt to resolve the situation without resorting to formal court proceedings.

8.5 We take this opportunity to underline the basic principle that custody should only ever be used for children and young people where there is no alternative, whether or not they are looked after. Further:

- (a) Where there is no alternative to custody, looked after children, like other children, should be placed in small, local units which are designed to promote their psychological and emotional wellbeing. We welcome the indication from Charlie Taylor that his review of youth justice, commissioned by the Secretary of State for Justice, will include a fundamental rethink of children's custody, including the closure of young offender institutions and the establishment of small units with a strong focus on emotional wellbeing and education.
- (b) Submissions to this review and research by HM Inspectorate of Prisons, Inquest and others demonstrates that looked after children can be particularly vulnerable while in custody and often have a particularly poor experience. A thoroughgoing review of custodial provision is required to ensure that the needs of looked after children are fully addressed within custody, including safeguarding, rehabilitation and planning for resettlement.

### **Recommendation 9 – Strengthen support from children's social care, social services and youth justice services for looked after children in the criminal justice system**

Each concordat on protecting looked after children from criminalisation (see recommendation 1) should reinforce the responsibility of children's social care services to work closely with youth justice services in order to:

9.1 Support looked after children to be diverted from the criminal justice system and custody wherever possible, including:

- (a) Ensuring the matter is dealt with without court proceedings unless there is no alternative;
- (b) Ensuring wherever possible that the child is eligible for bail and is able to comply with bail conditions; and
- (c) Ensuring that where a child is convicted of an offence, the court is presented with robust community alternatives to custody, unless custody is the only possible outcome.

9.2 Ensure that where a child is remanded or sentenced to custody, the child is well supported during his or her time in custody and there is effective planning for the child's resettlement.

## Outcome Six: Young people leaving care continue to benefit from good parenting and are protected from criminalisation

*The most disappointing thing for me was, as soon as I turned 16, social services turned their back on me. I was no longer supported. I was dumped in a hostel and told to get on with it.*

Young person responding to the review

*I feel like maybe if social services had not dumped me at the age of 16 and expect me to stand on my own two feet as a child, maybe I could of made different choices.*

Young person responding to the review

*.....It was less about 'me leaving care'....and more about .... 'care leaving me'*

Young person cited in submission by Surrey County Council Youth Support Service & Surrey Police

### 6.1 Introduction

In this review we have focused on the experiences of looked after children and young people under the age of 18. However we have done so in the knowledge that what happens to under 18 year olds affects them throughout the rest of their lives, and that young adulthood - especially for care leavers - is a time of particular vulnerability and risk.

Some children leave care before they are 18, leaving them even more vulnerable. In 2015, 24% of looked after young people in England and Wales ceased to be looked after at age 18, with 5% of 17 year olds and 6% of 16 year olds doing so. (Staines, 4.13, p. 24) Many of these young people will be at risk of unnecessary involvement in the criminal justice system. In this section we set out a brief examination of how young people leaving care can be best supported to avoid this.

In his review submission, Professor Mike Stein of the University of York summarises the international research findings on how young people leaving care can be supported to avoid needless criminalisation.<sup>344</sup> A key finding of the research is that providing young people with stable family foster care placements greatly reduces their chances of being involved in crime, as does doing well at school. Professor Stein's research also finds that young people who leave care later do better in education and employment and are more likely to be settled in accommodation than those who leave care early, and these factors are associated with reductions in later crime.

With stability and education as the strongest indicators of success, the challenge is clear. Of all children looked after in England on 31 March 2015, 67% (46,690) had one placement during the year, 23% had two placements and 10% had three or more placements (Staines, 4.5, p.16). These percentages have changed relatively little since 2010. Figures for Wales show slightly greater stability, with 71% (3,960) children having one placement during the year, 20% having two placements and 9% having three or more placements.<sup>345</sup>

In 2015, 14% of looked after children achieved five or more A\*-C GCSEs or equivalent, including English and mathematics. This is an increase on the 12% achieved in the previous year. This compares to 53% of children who are not looked after, and 15% of children in need.<sup>346</sup>

Many references have been made to the lack of suitable housing for young care leavers, and limited opportunities in education, training and employment which make young people vulnerable to offending. Based on 2015 data, of the 26,330 former care leavers aged 19, 20 or 21, 39% were not in education, employment or training.<sup>347</sup>

Achieving opportunities for young people to experience gradual and supported transitions to adulthood is another hurdle: almost half of 20-24 year olds in the UK are living with a parent,<sup>348</sup> whereas many young people leave care between 16 and 18 years of age (see above). There have been positive policy developments in recent years, including the introduction of bursaries for care leavers participating in further and higher education, and a new inspection framework which now requires Ofsted to make a specific judgement on the support provided to care leavers as part of its inspections of children's social care.<sup>349</sup> The government's care leaver strategy, introduced in 2013, is expected to be published in updated form later this year. However in general there is a concern that despite best efforts there is often inadequate ongoing support for young people leaving care, both emotional and practical.

## 6.2 The quality of care received as a child

Some respondents pointed out that the quality of care received before reaching independence, including stability in placements and relationships as discussed under Outcome Three, can make all the difference to young people's ability to cope when leaving care. One young person explained:

*I never had any positive role models in my life growing up. I never felt like I had any support around me, I never had anyone in my life that I could turn to in times of need. So when I left care I was literally on my own. I believe if my social worker formed a better relationship with me, she could have met more of my needs, instead of seeing me once every three months or so. Leaving me to feel as if she was a stranger. Even if it was just coming round to see me once a week, or a phone call, if she couldn't make it.*

Young person responding to the review

## 6.3 Too much independence, too young, with too little support

Many young people and practitioners reporting to the review have described overly high expectations placed on young people leaving care to reach independence at a young age and with minimal support. A recently retired youth magistrate commented:

*The struggle to live responsibly on their own, coping with budgets, cooking, education and employment is often an impossible challenge and, as magistrates, we were often impressed by the courage and determination the young people before us showed, though we were nevertheless shocked that there was no authority taking proper responsibility for them.*<sup>350</sup>



One foster carer supported the move to extend care until 21, commenting:

*I believe that in general children are expected to leave the care system too early and need to be financially supported to stay with their foster carers for longer when this is appropriate. We cared for a girl who was supported in fostering until she was 21 – that was absolutely the right thing for her – it was 1997 when she left us and I'm not sure she would have received as much support today.<sup>351</sup>*

We have heard that the 'Staying put' (England) and 'When I am ready' (Wales) programmes, which allow children to stay in foster care until the age of 21, have had some success in keeping children in care until they are ready to become independent. However progress is needed to ensure that more young people take up this opportunity (Staines, 4.13, p.24). Some foster carers have argued that they cannot afford to keep teenagers at home with the financial support they are being offered. These opportunities are not yet available to young people living in residential children's homes or transitional accommodation.

The support received from leaving care services is clearly also crucial. One adult reflecting on the time he and his foster brother spent in care commented:<sup>352</sup>

*We both believe that the weaknesses in the child care system today are not so different to the weaknesses that formed part of the system when we were both in care so many decades ago. That weakness is to do with the lack of appropriate and crucial support for many ex care children during those crucial early years when they first leave care and are left to get on with their own lives. This ... is such a waste when taking into account the relatively very high financial costs previously spent looking after these children often over a significant number of years prior to them leaving care. When you add to this the high cost of then keeping such young people within the penal system, the waste of public money becomes even more unacceptable.*

Submissions to the review have outlined how young people are put at greater risk of criminalisation if they lack suitable accommodation, live in deprivation and struggle to make the transition to adult services. The independent fostering agency Core Assets Transformation and Rehabilitation argues:

*Currently the care system focuses resources on a child's time in care up to the age of 16. Whilst Staying Put has attempted to improve this position, post 16, provision remains inconsistent.<sup>353</sup>*

A former social worker reflects on his own experience as a child in care, and why he thinks things worked out for him:

*I was surrounded by adults from different agencies who were prepared to stand up and be decent parents beyond the official call of duty. The Leaving Care Act (2000) also represented a high water mark for the care of care-leavers, right at the moment I needed that service. I know that Aftercare teams and probation services have been decimated and demoralised by swingeing cuts since then...I wonder if I were sixteen and in-care*

*today, how I would fare?... I still keep in contact with many of the adults who went out of their way to help me. I have clean criminal record but it could easily have been different.*<sup>354</sup>

An independent consultant specialising in commissioning for children in care told the review that where children are placed in the independent sector, local authorities are reluctant to continue to fund support when children leave care. She also raised concerns about changes in the staff and carers with responsibility for young people when they leave care:<sup>355</sup>

*Although it is often in the young person's best interests to be supported on an outreach basis by the foster care service or children's home that know them well, this very rarely happens. We are already seeing that local authorities are implementing policies that look to alter the team supporting a young person when their Staying Put placement starts. This introduces significant instability into a young person's life... There is often an expectation that young people should sever the attachments they had with their carers (particularly if placed in the independent sector) and be suddenly supported by staff they do not know well.*

This commentator argues that care leaving support should be provided by someone nominated by the young person, provided there is mutual agreement, regardless of the organisation the person works for. She explains:

*I believe the severing of critical relationships is a key reason that many young people are at risk of engaging in criminal activity. The impact of this very personal loss should not be underestimated.*

#### **6.4 Support for young people leaving care**

Maggie Norris, director of the Big House Theatre Company, reflects on the distinctive role that the voluntary sector can play in offering emotional and practical support to young people leaving care:<sup>356</sup>

*Having stable and caring relationships with people who offer long term support is the most important protective factor against harm... When young people feel alienated from their local authority, Children's Services can utilise the ability of the voluntary sector to deliver support and this work needs to be valued and properly funded.*

We were told of a programme in Wiltshire that has been piloted to support all children in care with their transition to independence.<sup>357</sup> Another project in South West England, Future 4 Me, is hosted by the organisation 1625 Independent People (1625 IP) and aims to engage with young people as early as possible so they can experience a positive transition from care to living more independently.<sup>358</sup> An independent evaluation has found that this service has a highly beneficial impact.<sup>359</sup>

One foster carer responding to the review described the approach taken by Shared Lives South West<sup>360</sup> to caring for young people aged 18 years and above with learning difficulties or mental health problems. He has found that this model of intensively supported, specialised foster care

has been successful in helping young people to stop offending, or prevent them getting in trouble in the first place.<sup>361</sup>

*Shared Lives have a wide range of families from various backgrounds, working with them who provide either long or short term care in a family setting. This is further reinforced by frequent and regular monitoring of both service user and care provider by Shared Lives who are in constant liaison with SS in case an issue should arise. Therefore instead of an individual, with or without special needs, being turfed out of the care system on reaching 18 years of age, they are provided for, given care and a home base from which they can venture out into the world when they feel ready and confident enough to do so. This results in a reduction in young offenders, as a result of young people feeling disassociated with society.*

He described two examples of success:

*One young man came to us eight years ago with minimal life skills and a great deal of apathy for any task. This young man has now got an apprenticeship and has high hopes for moving out soon with his girlfriend.*

*Another young woman has been with us a for only a couple of years but when she arrived she was near to being sectioned and suffered from alcohol and substance abuse and other complications. She has now been accepted into a very good university and hopes to get a degree in the future in her chosen subject. So the system works.*

This respondent felt that the Shared Lives model could be usefully expanded for care leavers more generally.

A respondent to the review, reflecting on her experience in care some years ago, called for the care leaving age to be extended to 21 and for care leavers to be offered suitable, high quality housing:

*The state should prioritise care kids to get the best flats in the better areas. We are after all the state's children, not just any children but the country's children. We should not be put in areas that are crime ridden, housing with poor standards in low economic areas. We are already on the back foot, we should be given the opportunity to flourish, feel cherished and special.<sup>362</sup>*

## **6.5 Further education and higher education**

A child psychologist who grew up in care commented that, despite significant progress:

*By any comparative norm to a standard population, throughout all levels of education, the results for the looked-after public population is still woefully inadequate...<sup>363</sup>*

The review heard of examples of good practice in increasing access to further and higher education for care leavers. We were told about the project From Care to University<sup>364</sup>, under

which Buttle UK's grant giving brought to light the difficulties that care leavers faced when going to university, and the resulting Buttle UK Quality Mark:

*In order to be awarded the Buttle UK Quality Mark universities and colleges had to offer a minimum level of support to care leavers, but also demonstrate a commitment to improving their provision further.*<sup>365</sup>

This respondent suggests there is now considerable potential for a pre-university access structure for care leavers in prison.<sup>366</sup> The Prison Reform Trust has also visited an innovative training scheme for care leavers run by National Grid and Warwick University.

The review also heard from First Campus, the South East Wales Reaching Wider partnership, which is funded through the Higher Education Funding Council for Wales.<sup>367</sup> The First Campus project is a partnership of all the Higher Education Institutions and Further Education Colleges in South East Wales with coordinators all based within universities. The aim is to widen participation in further and higher education for care leavers and young people from the most deprived areas in Wales. First Campus has four key programmes for looked after children and young people and has had a positive impact so far.

## **6.6 Preparing for employment**

Young people in custody described a lack of financial support, lack of education support or careers advice, and a 'tick box' approach in preparing for employment:

*Because of the lack of financial support and I had to buy my own clothes, food and then travel up to Colchester for college I would get in to lots of trouble because I would bump the fares and then get fined.*

*No useful education support or careers advice. The relationships with my social workers were really poor they just wanted to tick the boxes. Never looked at me as an individual. Nobody cared!*

*The social workers would just put you on a course in college to tick a box, but it was never anything that I was interested in so then I would just leave and then that would lead me to get in to trouble on the streets.*

Some respondents made practical suggestions about preparing children in care for employment. One social work professional referred to schemes offering supported work experience placements to children in care under a trial in Gloucestershire and by organisations such as Marriott Hotels, KFC and John Lewis. She suggested:<sup>368</sup>

*I think that all Year 10 Looked After Children should be offered supported work experience placements in the summer holidays before Year 11, to help increase aspirations and also give them an advantage over their peers.*

A Leaving Care Personal Adviser proposes that local authorities 'could do a lot more in employing 'their' children and young people on apprenticeships'.<sup>369</sup> She argues that such schemes should continue to be available to care leavers aged 19 years and beyond. She summarises:

*Reduce red tape and bureaucracy and open up the local authorities so that children in care and care leavers can easily access direct training or employment opportunities just as a real parent who had a business would...*

## **6.7 Care leavers in the criminal justice system**

Systemic challenges hamper fair treatment and proper support for care leavers in the criminal justice system.

### **6.7(a) Lack of clarity about care leaver entitlements**

Care leaver entitlements are complex. The evidence we have heard suggests that many professionals who come into contact with care leavers, including frontline police and staff in custody, do not understand the law and are therefore unable to ensure that care leavers have full information and can access the support to which they are entitled. Children's social care and social services can fall short in ensuring that young people know what they are entitled to as care leavers. Loopholes in the law can also mean that young people can be left without support. For example, young people who are accommodated under section 20 of the Children Act 1989 lose their care status if they are sentenced to custody and therefore lose their entitlement to support at a time of heightened vulnerability.

### **6.7(b) Differing levels of emotional maturity amongst young people leaving care**

The importance of recognising different levels of emotional maturity among young people, including young adults, within and on the fringes of the criminal justice system is a debate not confined to looked after young people. The Transition to Adulthood (T2A) alliance has done much to develop and promote evidence and practice to strengthen the case that developmental maturity is more helpful than chronological age in deciding how best to respond to young adult (18-25) offending generally, and to show how a distinct approach to young adults by criminal justice services reduces offending and improves outcomes ([www.t2a.org.uk](http://www.t2a.org.uk)).

Some respondents have commented that the transition to adulthood can be particularly challenging for young people in care and care leavers, for whom emotional maturity may come later than for young people raised in a stable home environment.<sup>370</sup>

### **6.7(c) Care leavers in prison**

Nearly one in four adults in prison has spent time in care.<sup>371</sup> The National Offender Management Service (NOMS) has published a practitioner guide<sup>372</sup> aimed at helping offender managers and offender supervisors to assess and plan work with care leavers by giving factual information and advice.<sup>373</sup> NOMS' Care Leavers' Champion leads on the development of practice nationally, supported by regional Care Leavers' Champions and the NOMS National Care Leavers' Forum. This body includes government and voluntary sector representatives and has identified four key priority areas to support care leavers in custody:

- 1 Identification (through a question in the Basic Custody Screening Tool (BCST))
- 2 Recording (through OASys<sup>374</sup> and P-Nomis<sup>375</sup>)

- 3 Entitlements – working with the Department for Education to raise awareness among staff
- 4 Support staff in developing skills to know how to ask about care leaver status.

NOMS is working with the Department for Education to address the difficulties in identifying Local Authority Leaving Care Managers for their offenders, especially if the home local authority is not where the prison is located. Some local authorities record care leavers in prison as NEET, therefore outside their responsibilities.

We recognise the progress being made. There is much more that can and must be done to improve the treatment of care leavers in the criminal justice system, as identified by the Care Leavers' Association in its recent recommendations to government ([www.careleavers.com](http://www.careleavers.com)).

#### **6.7(d) Rehabilitation of offences**

Some respondents to the review have discussed the benefits of making all criminal records spent for looked after children when they reach the age of 18. Dr Claire Fitzpatrick argues that “in light of the evidence on the unnecessary criminalisation of some children in care (and their frequent abandonment once in the justice system), there are strong grounds for exploring whether criminal records for minor offences received in care could be wiped once young people leave care... (cf. Fitzpatrick, 2014)”<sup>376</sup>.

One respondent who spent much of her childhood in care spoke about the difficulties created by having a criminal record:

*I am reluctant to say that criminal records must not be given so easily for petty crimes for [children in care] but alternative options must be explored because so easily sentencing children can create a vicious cycle of placing that child into a pattern of a lifetime of crime.*<sup>377</sup>

A recently retired Appropriate Adult who spent time in care agreed:

*...[W]ith the exception of very serious offences all criminal records of children [in care] should be removed once they reach school leaving age to ensure they have a level playing field with children from normal family units when seeking employment.*<sup>378</sup>

Reviewing the period for disclosure of offences for minor offences for all children would carry particular benefits for the looked after population, in mitigating the lifelong challenges that criminalisation can create.

Based on our findings, we make the following recommendations:

### **Recommendation 10 – Improve the rehabilitation of looked after children who have offended and support young people leaving care**

10.1 Where any child is convicted of a minor offence, including a looked after child, consideration should be given to wiping the rehabilitation (or disclosure) period for that offence immediately. Where this is not possible, the rehabilitation period should be

shortened and the offence should be expunged from the child's record at the age of 18.

- 10.2 Given the research evidence that leaving care early (at 16 or 17 years) is associated with poor outcomes, we recommend that the 'Staying put' and 'When I am ready' arrangements currently provided to looked after children in foster care should be extended to looked after children leaving residential care and transitional accommodation placements.
- 10.3 We recommend that support for care leavers who are not in education or training should be extended from 21 to 25 years, matching the support received by care leavers in training or education.





# Appendix One

## Concordats on protecting looked after children from criminalisation: guiding principles

1. The cabinet sub-committee, and appropriate Welsh government body, should commission and disseminate a concordat on protecting looked after children from criminalisation to support local children's social care or social services and criminal justice agencies in protecting looked after children in England and Wales from unnecessary involvement in the criminal justice system. Each concordat will reinforce legislation and statutory guidance concerning children in care and care leavers.<sup>379</sup>
2. Each concordat should be developed within one year. Within the same period, any corresponding amendments required to statutory guidance should be identified and put in place. There should be a further two year period for implementation followed by regular review.
3. Each concordat should set clear expectations for lead members, corporate parenting boards and chief constables to work together in partnership with other relevant agencies to establish common goals and implement joint working protocols to protect children in care against criminalisation. Relevant agencies include care providers, health commissioning bodies, health services, education services, the Crown Prosecution Service, courts and secure establishments. Joint working should include effective data sharing protocols and regular meeting forums.
4. Joint decision-making by local authorities and partner agencies should be facilitated through a decision making panel including senior-level representatives from the local authority, police, health and education services. This would be for all children but would be a good mechanism for ensuring that all relevant factors for looked after children are properly considered.
5. Each concordat should recognise the important roles of early support for children and families at risk and good parenting by the state in protecting looked after children from criminalisation, and should set out the expectations on local authorities as described at recommendations 3 and 6.
6. Each concordat should be developed and implemented in consultation with children and young people with experience of care and the criminal justice system, parents and carers, local authority leaders and practitioners. Leaders of local government, children's social care or social services, National Police Chiefs Council, police and crime commissioners, the Crown Prosecution Service, the Magistrates' Association and health commissioning bodies should be involved.
- 7 Each concordat should build upon the quality standards for residential children's care by encouraging the training of all carers, police and the wider children's social care and social

services workforce to engage with children and young people in a positive, understanding and respectful way, using formal and informal approaches to build relationships and a sense of community, support social development and respond effectively to challenging behaviour, avoiding formal criminal justice processes wherever possible. This has been done successfully in some areas through the use of restorative practice.

8. Each concordat should make clear that, in developing their joint working protocols to protect looked after children and young people from criminalisation, lead members, corporate parenting boards and chief constables should ensure that they address the particular needs of children and young people in care who are black or from other minority ethnic groups, and those of Muslim children and young people in care. This should include:
  - (a) Ensuring that looked after children and young people who are black or from other minority ethnic backgrounds, and those of Muslim faith, are consulted at both an individual and collective level about their experiences in the care and criminal justice system and matters that affect them, and using this information to help ensure their needs are met and that they are fairly treated;
  - (b) Conducting regular equality analyses about the numbers and proportions of children and young people in care who are black or from other minority ethnic groups, and those of Muslim faith, and who become involved with the criminal justice system and developing plans to address any disproportionality;
  - (c) Ensuring that staff and police officers undergo continuing professional development to challenge negative stereotypes and ensure the fair treatment of looked after children and young people who are black or from other minority ethnic backgrounds, or of Muslim faith;
  - (c) Ensuring that looked after children and young people who are black or from other minority ethnic groups, or of Muslim faith, who are at risk of criminalisation can access support and advice from peer mentors and positive role models from their own communities.
9. These joint working protocols should also be aimed at ensuring through consultation with children and young people, regular equality analyses, continuing professional development and the use of peer mentors, that the protection of children and young people in care from criminalisation is gender-sensitive; in particular, that girls in care are protected from child sexual exploitation and that negative stereotypes about girls subject to child sexual exploitation are challenged.
10. These joint working protocols should also be aimed at ensuring through consultation with children and young people, regular equality analyses and continuing professional development, that the protection of children and young people in care from criminalisation takes full account of children and young people's disabilities and speech, language and

communication needs. This will require:

- (a) Awareness raising and training amongst all professionals who come into contact with looked after children and young people who are at risk of criminalisation, including carers, social workers, teachers and health professionals, as well as the police, Crown Prosecution Service, lawyers, judges and magistrates and secure establishments.
- (b) Such training to be aimed at ensuring professionals are able to identify possible underlying developmental disabilities and disorders, learning disabilities and learning difficulties, and speech, language and communication needs, and ensuring that they know how to engage effectively with children and young people displaying signs of underlying conditions or additional needs.
- (c) More effective communication between children's social care, health, education and criminal justice agencies to ensure that information is passed on about children's known conditions and needs and that this information is taken into account in the treatment of children and young people and decisions that affect them.
- (d) Improved access to specialist services and support where it is needed.

## Appendix Two – Good practice examples and individual stories

### Good practice examples

#### **Surrey – a joint strategic approach to protecting children in care from criminalisation**<sup>380</sup>

In Surrey, youth offending services have been integrated with children's services and renamed 'youth support services'. Surrey County Council Youth Support Services work closely with Surrey Police under a joint strategy and joint decision making structure aimed at protecting children in care from being drawn into the criminal justice system. This includes the use of the youth restorative intervention, a pre-court disposal which is an alternative to the youth caution, the youth conditional caution and prosecution.

Surrey's use of the youth restorative intervention was independently evaluated in 2014 and (see Individual Story 1) and was described as follows in the evaluation:<sup>381</sup>

*The Youth Restorative Intervention ... is a pre-court disposal and an alternative to the youth caution, the youth conditional caution and prosecution. With a few exceptions it is the default disposal for young offenders who are under the age of 18 and admit the offence. The intention of the programme is to prevent reoffending, to repair harm to victims and improve their satisfaction with the Criminal Justice System ..., and to provide better value for money in the youth justice system. Overall, the initiative seeks to improve the experience of the criminal justice system for all: the victim, the offender, their families and the wider community.*

The evaluation concluded that the youth restorative intervention was 'successful in improving victim satisfaction, reducing first time entrants to the criminal justice system and re-offending'.

Surrey County Council and Surrey Police told the review:

*There needs to be a paradigm shift in the way we collectively view, understand and respond to the challenging behaviour of many of our children in care. We need to overcome the tendency to see their behaviour as 'troublesome' and instead see that these are children who are 'troubled' and in need of support and protection.*

*This means investment in a joined up partnership commitment to a more pedagogic, restorative approach well informed by an understanding of trauma and attachment...*

*There also needs to be commitment to system change that more effectively protects children in care from the harmful effects of contact with the criminal justice system. This means system change to ensure that at the point that decisions are made about case disposal, that the decision-makers are aware that the child is a child in care, and that the decision can be one that is well informed by the context and the circumstances of that*

*child. There should be a presumption that any transgression on the part of a child in care is first, and indication of a safeguarding need, until proven otherwise. When there is a response it should not be an ill-informed unilateral one on the part of a worker from a single agency, such as Police, or [youth offending team], but instead, well -informed by all key professionals/ carers involved in the child's life, to ensure that any response is mindful of and sensitively sequenced with other work that may be active in support of the child at the same time.*

*The current system is unhelpfully process driven and not sufficiently flexible to put people first.*

Part of the strategy adopted by Surrey County Council and Surrey Police has been to make local adjustments to the criminal justice system with respect to children in care, to afford them greater protection from criminalisation. The key features of Surrey's strategy are:

- (a) To invest in 'restorative care' to better support carers in their support of upbringing of children in care with reduced reliance on sanction-based behaviour management, making it less likely that problematic behaviour is brought to the attention of the police in the first place (prevention).
- (b) When the police do get involved that decision-making is multi-agency and with a commitment to avoiding formal criminal justice outcomes wherever possible (diversion).
- (c) To strive to ensure that children in care placed out of county are afforded the same level of protection from avoidable criminalisation than those young people who offend 'in county'.
- (d) To reduce the likelihood of care leavers coming into contact with the criminal justice system.

The approach in Surrey led to a 45% reduction in the rate of offending by looked after children from 2011/12 to 2014/15.

### **A pan-Gwent protocol to reduce the prosecution of looked after children<sup>382</sup>**

In Gwent a protocol has been agreed and implemented to reduce the prosecution of looked after children. The protocol is underpinned by training in the use of restorative approaches where this is a safe and appropriate response to challenging behaviour by looked after children and young people. The aim of the protocol is to reduce the number of looked after children being arrested for minor offences that would not have come to police attention if the children had been living at home with their parents. The programme also offers training and support to foster carers and residential unit staff, and should stabilise placements.

The protocol underlines the importance of regular and effective liaison between children's homes' staff and managers, foster carers, social workers and managers, and the youth offending service/prevention team, local neighbourhood policing teams and crown prosecutors.

Regular liaison meetings between neighbourhood policing teams and staff in children's homes allow for discussion of non-urgent incidents within the home to identify the appropriate resolution including:

- Internal action by children's home staff with no police involvement
- Invitation to local neighbourhood policing team to support internal action being taken by staff in children's homes by attending a meeting with the young person and staff in the home
- Formal police investigation primarily by the neighbourhood policing teams and any resulting action.

The protocol sets out factors to be considered by children's home staff when considering whether to involve the police in an incident immediately, at a later stage, or at all.

### **Leeds City Council – a 'whole city' restorative approach<sup>383</sup>**

Leeds City Council has adopted the ambition to be 'the best city for children and young people to grow up in'. This work includes:

- (a) A partnership between Leeds youth offending service and the Care Leavers' Association who developed the Clear Approach programme, acknowledging the strong correlations between care experience and involvement with the criminal justice system. This is a multi-modal programme which has been delivered to care leavers in Leeds and is designed to build a collective understanding through shared experience, of the relationship between care experiences and anti-social/harmful behaviour. The programme explores the impact of care experiences on the individual and develops clear strategies and empowered approaches to facilitate safe and pro-social change.
- (b) A focus on 'Best Start' and 'Early Help', which has contributed to a reduction in the number of children who are looked after or on child protection plans, contrary to national trends. Family Nurse Partnerships and Family Group Conferencing have further contributed to safely and appropriately reducing the need for children to become looked after, with potential to expand further as the FGC service and youth offending service's 'Reconnect' service develop.
- (c) Investment in reunification, including through the Multi-systemic Therapy Family Integrated Transitions (MST FIT) programme.<sup>384</sup>
- (d) An ongoing ambition to achieve a whole city restorative approach, incorporating not just children's social work services, but also wider children's services, education settings, criminal justice settings and beyond as an integral part of the Leeds approach to better outcomes for children and families.

Since 2012 Leeds City Council has reduced the overall number of looked after children from 1,450 to 1,250; a reduction of around 14%. In particular, Leeds City Council has reduced reliance on internal and external residential placements; external placements have reduced from 140 to 61 (a 56% reduction), equating to annual savings of £14.8m. Internal placements have reduced from 54 to the current remodelled in-house provision of 29 (a 46% reduction), equating to a saving of £2.7million.

As part of the Innovation Fund Families Values project, basic awareness training in restorative practice has been delivered to over 5,000 staff across the council and wider partnership. In addition 700 staff, including staff from the Youth Offending Service, have received more intensive 'deep-dive' training to embed restorative practice approaches further with key front line staff. This ongoing focus on restorative practice and the use of Family Group Conferencing to help children safely and appropriately remain within their birth family or extended family has helped to reduce the overall numbers of children who are looked after and has contributed significantly to Leeds City Council's overall savings.

In the year ending October 2015, Leeds saw a reduction in the percentage of children and young people known to the youth justice service who were looked after, from 13% to 10.5%. This represented a reduction in the percentage of looked after children in Leeds who were known to the youth justice service, from 7.6% to 5.4%.

### **Leicestershire – a restorative approach to children's care<sup>385</sup>**

In Leicestershire, following concern about the number of young people getting involved in the youth justice system, mainly for low level offences, a programme of restorative justice was introduced from 2007-2010 to establish a restorative approach across the children's homes in the county, to enable the staff in the homes to manage low level behaviour without recourse to the Police.

An independent evaluation found that there was a substantial reduction in convictions and offences committed by children and young people both inside and outside homes.<sup>386</sup> Ongoing work includes attempting to engage private children's homes in this agenda.

The protocol identifies three categories of response:

- (a) Immediate police response required. Circumstances: serious harm or intended to lead to serious harm.
- (b) No immediate police response required, but police input helpful. Circumstances: no immediate risk, avoiding unnecessary reporting to the police. It is important that the victims views are sought out and met in this decision.
- (c) Internal resolution. Circumstances: stolen property is returned, all parties satisfied with appropriate reparations to damage, assault is an isolated incident. The police have provided advice on various common crimes and the level at which they can be dealt with internally before the police are called.

Reparative activities will then be identified by the young person, the victim and those involved in the offence, and staff training will ensure that staff feel confident to use these restorative approaches as a police alternative. The pilot also encourages the sharing of information amongst agencies.

In 2011 the Restorative Approaches Project was independently monitored by De Montfort University. Year on year the total offences recorded reduced substantially, from 147 in year one to 50 in year three. The number of young residents offending during each year halved during the life of the pilot, from 80% of residents in year one to 41% of residents in year three. 82% of the young people had a criminal record and over half (54%) of the offenders committed their first offence before they were 'looked after.' Most (70%) of the young people who had offended continued to offend during the life of the project, the majority of which came from those offending before the start of the pilot (70%).

De Montfort University identified two key issues that remain. One ongoing difficulty is tackling 'settling in offences.' Most offences are committed within weeks of their residency in the pilot homes. This is a crucial time in shaping trusting relationships and to gain an understanding of the child's vulnerabilities and needs. Another key indicator of those children most likely to commit offences are those with unstable placement histories.

### **Staffordshire - Reducing missing episodes for children in residential care<sup>387</sup>**

A number of respondents to the review discussed the risks of criminalisation associated with children going missing from care. We heard evidence from Staffordshire Police, whose proactive, close joint working with local care homes has led to a reduction in missing episodes:

*Over a 12-month period, and now we were focusing on a small policing area, we actually started to see a real reduction in missing episodes, because we were involved in that risk assessment of new placements. We were starting to understand what that care plan looked like and how we could support that, and how we could perhaps intervene if actually something wasn't working.*

*As a result of missing episodes, we were getting then involved in talking through with that young person really what was going on, and often the care plan was just not achievable. Giving a 15-year-old 15 minutes' free time a week was never going to be managed. We were never going to be able to keep that young person in the home for all that time.*

*Ridiculous things like points that nobody had ever actually asked that young person about. "I want to go and see my brothers and sisters, but you're telling me I can't go home and see them at the weekend. Well, they're at school in the week and I don't want to go in the week." Nobody had ever actually bothered to ask the question and listen.*

Chief Inspector Clare Riley, Staffordshire Police, oral evidence session 10/09/15

**Norfolk:** In Norfolk, the number of young people in care who became involved in the criminal justice system dropped by 52% two years after the implementation of county-wide restorative practice in children's homes. The scheme was introduced in 2009 and saw 100 staff trained in restorative practice. The number of young people in care who were charged with a criminal offence over the next two years fell from 7.2% in 2009 to 3.4% in 2011.<sup>388</sup>



**Hertfordshire:** There was a 23% reduction in police call outs during the three years following the implementation of restorative practice in care homes by Hertfordshire County Council, compared to the previous three years.<sup>389</sup>

**Waltham Forest, London:**<sup>390</sup> A jointly funded Looked After Children / Youth Offending Service post in Waltham Forest ensures clear joined up approach for looked after children known to the youth offending service. The postholder also reviews 'at risk' looked after children and works to reduce risk. This model was identified as an example of good practice in HM Inspectorate of Probation's Short Quality Screening Inspection 2015. In Waltham Forest, restorative justice training is completed with care home staff and foster carers who look after children in the care of the local authority, with the aim of reducing criminalisation. The Youth Offending Service and Children's Social Care team work together to deliver restorative justice with young people and care home staff to reduce placement breakdown. Restorative intervention officers have been introduced in schools to reduce criminalisation and absenteeism.

**Manchester youth justice services:**<sup>391</sup> Manchester youth justice team is one of the biggest in England and Wales, covering a large and diverse demographic. The team has worked on a number of fronts to reduce the over representation of looked after children in the criminal justice system, resulting in a 57% decrease in appearances by looked after children in Manchester Youth Court. Breach of a community order, which is a criminal offence, continues to have a disproportionate impact on looked after children in Manchester. However, the youth justice team has responded with some success via the use of compliance panels. When it is apparent that a young person is not complying with the community order, and may be about to breach it, a compliance panel is called. This allows for the young person and their parent or carer to meet with the youth justice worker to discuss why they may be struggling to comply. At this meeting, a behaviour contract is drawn up. If the child complies with it, all their previous warnings are wiped and the threat of breach is removed. The latest figures from Manchester Youth Court indicate a 50% overall reduction in looked after children appearing in court for breach.

Significantly, there has also been a reduction by more than half in the number of crimes committed in residential care homes since monitoring began in 2012. This figure has dropped from 22.4% to just 10% of all crimes appearing before Manchester Youth Court. A number of steps have been taken to achieve this. The youth justice team have an identified single point of contact for all residential children's homes, who has established communication between the care homes and the police. This has led to a significant reduction in police call outs (38%). In addition, Manchester Youth Justice have commissioned a voluntary sector organisation to lead on training care home staff on restorative practice in care homes. Finally, in the Summer of 2014, the youth justice team worked on a collaborative advocacy project with the Care Leavers' Association in which looked after children and young people took part in the making of a short film in which they talked candidly about their experiences in the criminal justice system. The film was shared with professionals from a range of services across the city, including the director of children's services and created a potential platform for how improvements could be made in the future.

## Examples of local practice submitted by the Youth Justice Board for England and Wales (YJB)<sup>392</sup>

As part of its submission to this review, the YJB collated examples of local practice through a scoping exercise with youth offending teams. These are grouped into four categories and briefly summarised here:

- **Information sharing and data recording:** In Redbridge, the youth offending team and children's services work together to analyse looked after children and youth offending team data on a quarterly basis, to identify trends and target resources; in the Wirral, arrest data is used daily to identify looked after children and ensure the pan-Merseyside looked after children decriminalisation protocol is followed. Further examples of local practice are given from West Berkshire, Southampton, Thurrock and Portsmouth.
- **Diversion:** The YJB reports on local practice to prevent the unnecessary criminalisation of looked after children. As well as the joint work between Surrey County Council and Surrey Police, the YJB cites the development in Southampton of a joint decision making panel to support the consistent administration of out of court disposals with Hampshire Constabulary, with looked after children as a priority group; in West Berkshire, specific relationships have been built by the YOT with local residential units and there is a policy in place to reduce police intervention, as well as restorative justice training for children's home staff; parenting support programmes are provided by Slough YOT and many other YOTs, most commonly Triple P, Strengthening families and Strengthening Families, Strengthening Communities.
- **Interventions:** The YJB identifies a number of programmes designed as targeted interventions for young people and families presenting with serious problems, including but not limited to offending. For example they highlight the use by Northampton YOT of the Multi-Systemic Therapy referral pathway which takes a more holistic approach with young people, their parents or guardians, using services such as children's social care, the youth offending service and child and adolescent mental health services, to reduce anti-social behaviours, improve family communication and functioning, and support the young person with school engagement. A variety of further examples of local practice are given from Manchester, Ealing, Lewisham and Sheffield.
- **Partnership working and service level agreements:** As well as citing the South East England protocol, the YJB notes that agreements between relevant agencies within local authorities to reduce the criminalisation of looked after children have been operating for some time in some areas. Examples of local practice are mentioned from Hillingdon, Bromley, Bexley, Bradford and Medway.

Fuller information is available in the YJB's submission to the review, which can be downloaded from the Prison Reform Trust website: [www.prisonreformtrust.org.uk/carereview](http://www.prisonreformtrust.org.uk/carereview)

The YJB's table, summarising examples of local practice, is reproduced below:

## YJB's table of local practice (not exhaustive)

Youth offending team / region	Description
Bexley	Seconded in social workers to meet the needs of looked after children in the youth justice system
Bradford	Cross agency partnership to develop local protocol for looked after children
Bromley	Seconded in social workers to meet the needs of looked after children in the youth justice system
Buckinghamshire	Youth offending team appointed mentors for all looked after children in the youth justice system
Ealing	<p>Summer arts programme specifically for looked after children</p> <p>Youth justice worker embedded in brighter futures team focussing on looked after children</p>
Hillingdon	Set up task and finish group to respond to HMIP's thematic review on looked after children
Leicestershire	Restorative approaches across local residential units
Lewisham	Cross departmental strategies to safeguard young people affected by serious youth violence, including looked after children
Manchester	<p>Developed the cross agency looked after children management group</p> <p>Restorative justice training for all practitioners working with looked after children</p> <p>Co-located cross departmental team to tackle serious youth violence and child sexual exploitation</p>
Medway	protocol to meet the need of looked after children leaving custody

Northampton	Multi systemic approach to work with children and families
Portsmouth	Provide management data to drive performance around looked after children
Redbridge	Regular use of youth offending team/children service data
Sheffield	Multi Systemic Therapy used to tackling serious anti social behaviour  Developed foster care provision to reduce remands of looked after children
Slough	Developed a comprehensive parent support programme
Southampton	Information flows to track looked after children placed out of borough
Surrey	Developed Surrey inter agency protocol
Tameside	Diversion work with looked after children
Thurrock	Data analysis to identify offending trends of looked after children
West Berkshire	Data analysis to identify looked after children involved in serious incidents  Cross agency policy to reduce prosecution of looked after children  Delivered restorative justice training to local residential units
Wirral	Daily analysis of arrest data to identify looked after children
10 youth offending teams in the South East of England	The south east strategy protocol to develop consistency across boundary for looked after children

## Individual Stories

**Individual story 1:** *Use of the Youth Restorative Intervention - A case study from Surrey County Council and Surrey Police*

*A 15 year old girl came into our care in a children's home on a Marriage Protection Order. In April she had a bad day at school and to top it off when she spoke to her mum on the phone about visiting her on Mothers Day that weekend her mum said she didn't want to see her. She was upset and angry and just wanted to be left alone.*

*On arriving home the staff could see she was upset and asked her what was wrong which escalated into her storming off and being verbally abusive. The verbal interaction continued with staff and she eventually locked herself in the bathroom. Here she began playing with the toilet roll and setting it alight, some of the toilet roll fell on the floor, she stamped it out, but not before it set off the fire alarm and the rest of the residents had to be evacuated.*

*When all the young people and staff returned to the home she was still very angry and upset about the events of the day and had another altercation with staff, this time being racially abusive and again locking herself in the bathroom where she caused some damage. She eventually came out and ran off – the Police were called and picked her up but she refused to return to the community home and ran off again, this time returning to her family home.*

*The offences were defined as 'Arson reckless as to whether life is endangered' and 'racially aggravated assault'. The residential home were keen to avoid criminalising her and were keen for the offence to be dealt with by way of our new Youth Restorative Intervention (YRI).*

*When I met her she was still in the family home – a decision was made to let her stay there until a formal court hearing in a few weeks time. She was still angry about what had happened and how she felt unfairly treated but was keen to make amends and avoid a criminal record as she recognised how damaging this could be for her future prospects.*

*Several conversations with both her and the home manager followed before an agreement was reached and she agreed to do some victim empathy and fire awareness work. Through the victim empathy work she was able to see the events from the perspective of others and recognised the impact of her behaviour. The community home staff were happy with this as an outcome and the matter was resolved without the need for a prosecution.*

*\*Submission 115 - Surrey County Council and Surrey Police*

**Individual story 2:** *Successfully using close multi-agency work to support a child in care with complex needs through the criminal justice process - one young person's story (submitted by a youth offending team worker)*

*Lewis (not his real name) has a diagnosis of developmental trauma and PTSD as well as previously being diagnosed with low mood and depression. Lewis has a history of substance misuse and has been hospitalised for an overdose of legal highs. He has a history of self-harming and suicide threats. In 2011 Lewis was diagnosed with cancer. He is currently in remission. He has an Educational Statement for his emotional needs. He has a special educational statement for his emotional and behavioral difficulties.*

*Lewis lived with his mother until 2008 when she committed suicide, he had no contact with his father up until this time. Lewis's mother had a number of additional needs and during his time living with his mother his maternal grandmother would have regular contact with Lewis. After his mother's death Lewis went to live with his maternal grandmother up until 2013 when he requested that he should be allowed to live with his father, during which time his behaviour deteriorated and he committed the offences (including an ABH in May 2014) for which he received his custodial sentence, he was placed in a residential placement by children's services. After further offences of Assault whilst at the residential home he was placed in a Secure Unit on a Welfare Secure Order. He was placed there until the end of August 2014. In August 2014 Lewis was moved to a placement at a residential school out of county on a full care order. This school is for young people with emotional and behavioural difficulties. This was a 52 week placement. He was studying for his GCSEs during this time. On 15th March 2015 Lewis was sentenced for the offences including the offence of ABH and received a 12 month Detention and Training Order and went to a Secure Training Centre. During his sentence he took his GCSE exams. He was granted early release in August 2015 and returned to his placement at the out of county School as this had been planned for from the very start of his sentence with both children's services and YOT keen to ensure this was able to happen. He has been settled there and it was assessed that this would give him the best chance of re-engaging with education and succeeding on license. He will retake year 11 there. He remains on a full care order.*

*I feel that this is a good example of keeping 'children in care out of trouble'. I think YOT working closely with children's services from the start of his sentence has been key to this and making sure that all wider support networks were used. One example of this was us ensuring that this young person was able to maintain telephone contact with their own community therapist whilst in custody as well as accessing the mental health services in custody. Whilst Lewis was in custody YOT liaised closely with his school to ensure that work was sent to him in custody and he was able to submit work that usually would not be completed in custody resulting in him gaining more GCSEs than the STC alone were able to provide. We have also worked closely with the host YOT to ensure that this young person's license has been managed successfully balancing the risk of reoffending and risk of harm to others with the fact that this young person is very vulnerable.*

*There have been some ups and downs but generally the young person continues to make positive progress and has been able to return home for visits to stay with his grandmother and has had no further police involvement. Lewis has written a very meaningful letter to his victim which initially was not requested however through liaison with the probation VLO the victim has accepted this which has been positive for both parties.*

*\*Submission 76 - a youth offending team*

**Individual story 3 - Aylish Alexander Solicitors:** *Young man with experience of care is unrepresented in deportation proceedings which take no account of the circumstances in which he came to the UK and failures in the care system to protect him from criminalisation*

*We received a submission from solicitors acting for a young man facing deportation to Congo, whom we shall call John. John came to the UK with his mother when he was six or seven years old, was granted asylum and settled in London. John does not know the background to these events but believes his mother may have been politically active in Congo. The circumstances in which he came to the UK were highly traumatic. John had been mainly raised by his grandmother up to that point. His mother took him to the UK in hurried circumstances. He does not know why his grandmother did not accompany them. John and his mother were pursued by attackers with machetes as they boarded an aeroplane to the UK. John recalls being hurried onto the plane by white people wearing suits. This was the first time he had seen white people. John's uncle was attacked and fell, and did not make it onto the plane.*

*On arrival in the UK, John lived with his mother. A few years later, aged 10, he was taken into care due to abuse and neglect by his mother and her boyfriend. He then lived in a succession of placements, including both foster care and residential children's homes. Some placements were a long distance from London where he had friends.*

*John's first offence is recorded as criminal damage in a residential children's home when he was 14 years old. The circumstances were that he had barricaded himself in his room and caused damage to a window. He received a referral order and £25 fine. John was subsequently convicted of a number of offences, culminating in a conviction for GBH as a young adult. He now faces deportation to Congo due to criminality.*

*John's solicitors are applying to have his deportation order revoked on a number of grounds, including the following:*

- The fact of John's having been brought up in care, and his experiences before going into care, were not taken into account at his deportation appeal, where, unfortunately, he was not represented.*
- John experienced a lack of stability, supervision, and appropriate role models while in care.*
- John appears to be suffering from some form of mental illness or learning difficulty, and his solicitors are trying to have him assessed.*

*\* Submission 222 - Aylish Alexander solicitors*

# Appendix Three: Data on looked after children and criminal justice

## Looked after children - characteristics and outcomes

### Numbers of looked after children

There were 75,155 looked after children on 31 March 2015 in England and Wales.<sup>393</sup> At local authority level the rate at which children are looked after varies significantly. In England the highest is Blackpool where the rate is 158 per 10,000 and Wokingham is the lowest, at 20 per 10,000. Broadly similar variation exists in Wales, where the highest rate is Neath Port Talbot, at 156 per 10,000 and the lowest Pembrokeshire, at 46 per 10,000.

### Reasons for being looked after

The reasons why children start to be looked after have remained relatively stable since 2011. The majority of looked after children – 61% in both England and Wales - are looked after by the state due to abuse or neglect. Only a very small fraction of children become looked after for socially unacceptable behaviour, 2% in England and 4% in Wales. This category could include offending.

### Age of looked after children

In England there has been a fall in the last two years in the numbers of 1- to 4-year olds looked after on 31 March together with a greater number of older children being looked after. Wales too has seen a reduction in numbers of younger children in care but the older age ranges (5 and above) have remained stable. The age of the young person appears to be influential on offending behaviour (see Staines, p.9, 3.2).

### Ethnicity of looked after children

The ethnic breakdown for looked after children has varied little since 2011. The majority of children looked after in England on 31 March 2015 (73%) are from a White British background. In Wales, 93% of all looked after children are white. Whether children from minority ethnic groups are proportionately represented in the care system is debated (see Staines, p.9, 3.3).

### Unaccompanied asylum seeking children in care

Of the 69,540 children looked after in England on 31 March 2015, 2,630 (4%) were unaccompanied asylum seeking children. The number of looked after unaccompanied asylum seeking children in England had been falling since 2009, but increased by 5% between 2013 and 2014 and by 29% between 2014 and 2015. (See also Staines, p.10, 3.5.)

### Types of placement

75% of the 75,155 children looked after in England and Wales on 31 March 2015 were cared for in a foster placement. Numbers of children in foster placements in Wales have been constant since 2011, but the figures for England show an increase of 8% since 2011 - a larger increase than the rise in overall numbers of looked after children (6%). In 2015, 6,570 looked after



children in England (9% of the total) were cared for in secure units, children's homes and hostels.

### **Placement stability**

Of all children looked after in England on 31 March 2015, 67% (46,690) had one placement during the year, 23% had two placements and 10% had three or more placements (Staines, 4.5, p.16). These percentages have changed relatively little since 2010. Figures for Wales show slightly greater stability, with 71% (3,960) children having one placement during the year, 20% having two placements and 9% having three or more placements.<sup>394</sup>

### **Educational outcomes**

Educational attainment for looked after children is improving, although it remains much lower than for other children (Staines, 3.7 p.11). In 2015 14% of looked after children achieved five or more A\*-C GCSEs or equivalent, including English and mathematics. This is an increase on the 12% achieved last year. This compares to 53% of children who are not looked after, and 15% of children in need.<sup>395</sup>

### **Special education needs**

In England looked after children are four times more likely to have a special educational need than all children and are almost 10 times as likely to have a statement of special educational need or an education, health and care plan (EHC plan) (Staines, 3, p.8). In 2015, 61% of looked after children in England had a special educational need, compared to 50% of children in need and 15% of all children.<sup>396</sup>

Information on the primary need is collected for children who have special educational needs with a statement or an EHC plan, or who have been identified as needing SEN support. For both groups, social, emotional and mental health was the most common primary need for looked after children in England, covering 38% of those with a statement or EHC plan and 45% of looked after children with SEN support. This is in contrast with the needs identified in the child population as a whole. Looked after children in England are three times more likely than other children with a SEN statement or EHC plan to have a primary need of social, emotional and mental health.<sup>397</sup>

### **Emotional and behavioural health**

In England in 2015, 37% of looked after children had emotional and behavioural health that was considered to be a cause for concern, and a further 13% were considered borderline. The remaining half were considered to have 'normal' emotional and behavioural health. This was similar to previous years.<sup>398</sup>

### **Permanent exclusions**

In England 0.13% of looked after children were permanently excluded from school in 2015, compared to 0.06% of all children. Whilst there has been little change in the percentage of looked after children who had been excluded this year, the rate has halved since 2010 when 0.27% of looked after children were permanently excluded.

## Looked after children in the criminal justice system

### Introductory note

This review's terms of reference included a commitment to establish an accurate count of the numbers of looked after children in custody. In recognition of the limitations in the published data, we conducted a survey of our own. In August 2015, Lord Laming therefore wrote to all local authorities in England and Wales to find out the number and proportion of looked after children who had offended or were in custody, regardless of how long they had been in care (in other words, not limited to those in care for at least 12 months). Almost 60% of local authorities provided the data requested. This information is referred to as 'the review survey data'.

We were also generously assisted by the Welsh government, the Youth Justice Board for England and Wales (YJB), the Department for Education and HM Inspectorate of Prisons (HMIP), all of whom helped us by answering questions about their published data or providing provisional outputs for the purposes of analysis.

Please see the notes on the review's analysis of data on pages 143-147 below for further information about all the above sources of data and the approach we have taken.

### Rates of offending by looked after children

On 31 March 2014, six per cent of children in England aged 10-17 years who had been looked after continuously for the previous 12 months were reported to have offended in that period. In Wales the proportion was 4%.<sup>399</sup> The rate of offending for looked after children in England in 2014 was six times higher than the offending rate for all children in England, which was 1%.<sup>400</sup> Comparative figures for the general population in 2015 are not yet available.

These figures make clear that most children in care do not get in trouble with the law. However, looked after children in England are six times more likely than children in the general population to be convicted of a crime or receive an out of court disposal.

According to the review survey data (see Table 1 on page 144 below), 6.5% of all children in England and Wales aged 10-17 years who were looked after on 31 March 2015 (not only those who had been looked after continuously for 12 months) had committed offences in the previous 12 months. This is a higher rate of offending than that reported by the Department for Education and the Welsh government in relation to 10-17 year old children who had been looked after continuously for 12 months on 31 March 2015, namely 5.2% in England and 5% in Wales. Comparative figures for the general population in 2015 are not yet available.

### Rates of convictions and cautions

There is no published data on the rate of convictions received by looked after children as compared to cautions. Based on the review survey data (see Table 1 on page 144 below), we estimate that in 2015 looked after children received about twice as many convictions as cautions. This compares with the national proportion of around 50% more sentencing than cautioning for all children<sup>401</sup>, suggesting that looked after children who come to police attention may have a

higher risk of being convicted as opposed to receiving a pre-court disposal, compared to children who are not looked after.

### **Number and proportion of looked after children in custody**

There are two sources of published data on the numbers of looked after children in custody in England and Wales, each of which has shortcomings and is likely to under estimate the true figures significantly.

HM Inspectorate of Prisons publishes data based on its surveys of children and young people in young offender institutions (YOIs) and secure training centres (STCs) in England and Wales. Over half of children in STCs and 38% of children and young people in YOIs who responded to HMIP's 2014-15 survey reported that they were, or had been, in care.<sup>402</sup> This equates to about 340 children and compares with one per cent of children in the general population in England and two per cent in Wales. This is likely to be a significant under-estimate of the true number (see notes on pages 143-147 below) and does not in any event include children in secure children's homes (SCHs), who are not covered by HMIP's surveys.

The Department for Education publishes snapshot data collected by local authorities about the characteristics and circumstances of all looked after children on 31 March each year. This includes data showing where each looked after child is placed on 31 March, and data showing the legal status of looked after children which includes a 'youth justice' category. Neither of these two snapshots provides an accurate account of the number of looked after children in custody either under sentence or on remand. The placements data for 31 March 2015 records 180 looked after children in secure units and 260 looked after children in YOIs or prison.<sup>403</sup> This includes children detained in secure units for welfare reasons and it is not clear whether it includes those placed in STCs. In any event, it is likely to under-estimate the true figures (see notes on pages 143-147 below).

For the purposes of this review we examined two further sources of data. The YJB kindly provided the review with provisional outputs for the snapshot date of 3 April 2015 based on information entered by youth offending teams on Placement Information Forms upon children's entry into custody. We also examined data from our own survey of local authorities. Please see the notes on pages 143-147 below, in respect of both these sources of information.

Based on all the above sources of data, we estimate that up to half of the children in custody in England and Wales at any one time are, or have been, looked after children (see notes on pages 143-147 for our analysis). Our estimate includes children who have been sentenced and those held on remand. Some of those held on remand will be looked after solely because of their remand status, while others will already have been looked after before entering custody.<sup>404</sup>

### **Needs, experiences and characteristics of looked after children in custody**

Looked after children in custody show greater levels of need (as a group) compared to other children in custody in areas such as mental health, and worse outcomes in areas such as responding to behaviour incentive schemes.<sup>405</sup>

According to the most recent survey by HM Inspectorate of Prisons, children in secure training centres who said they were or had been in local authority care were:<sup>406</sup>

- Less likely than their peers to say that they had visits from family, carers or friends at least once a week (34% compared with 61%)
- Less likely than their peers to say that they knew where they would be living when they left the centre (52% compared with 89%)
- More likely than their peers to say that they had been physically restrained during their time at the STC (45% compared with 29%)
- More likely than their peers to say that they had felt threatened or intimidated by other children while at the centre (25% compared with 10%).

Boys in young offender institutions who said that they were, or had been, in local authority care:<sup>407</sup>

- Were less likely to have been from a black and minority ethnic background (37% compared with 46%)
- Were twice as likely to have dependent children (14% compared with 7%)
- Were twice as likely to consider themselves to have a disability (26% compared with 13%)
- Were less likely to say that the different levels of the rewards scheme encouraged them to change their behaviour (39% compared with 48%)
- Were significantly more likely to have been placed on a minor report (59% compared with 40%), been adjudicated against (74% compared with 61%) and been physically restrained (48% compared with 36%)
- Reported higher rates of emotional or mental health problems (37% compared with 16%)
- Were more likely to have drug problems on arrival (42% compared with 32%)
- Were more likely to say they felt unsafe at the time of the inspection (17% compared with 11%) and that they had experienced victimisation by a member of staff (29% compared with 22%)
- Were significantly less likely to have had one or more visits per week from family and friends (23% compared with 43%).

### **Looked after children from minority ethnic groups and looked after Muslim children and young people in custody**

Compared to those aged 10 to 17 in the general population and the looked after population in England, there is an over representation of black, Asian and ethnic minority young people in custody. While there is no published data on the numbers of looked after children in custody who are black, Asian or from another minority ethnic background nor on those of Muslim faith, our analysis of provisional outputs for the snapshot date of 3 April 2015 made available to the review by the YJB suggests an indicative figure of approximately 44% of looked after children in custody being black, Asian or from another minority ethnic background (please see below and notes on pages 143-147).<sup>408</sup> This is similar to the proportion of all children in custody (including those who are not looked after) who are black, Asian or from another ethnic group which is around 40%.<sup>409</sup>

HM Inspectorate of Prisons kindly conducted additional analysis for the review of the data they collected from surveys of children and young people in secure training centres (STCs) in 2014-15 (N=203). These weighted and quality assured figures showed that 48% of children surveyed in STCs during 2014-15 who were black, Asian or from another minority ethnic background, reported experience of local authority care. This compared with 55% of White children, suggesting that White children in STCs were more likely to have a care background.

50% of Muslim children surveyed reported experience of local authority care, compared with 52% of children who were not Muslim.<sup>410</sup> This suggests that Muslim children and young people in STCs were slightly less likely to have a care background than other children in STCs.

### **Cost of care placements and accommodation**

In 2012-13, authorities spent £1.5 billion on fostering services and £1 billion on residential care.<sup>411</sup> The average annual spend on a foster place for a child is £29,000-33,000 per annum; for a residential place it is £131,000-135,000 per annum.<sup>412</sup>

£142.4 million was spent on secure accommodation for children in 2013-14.<sup>413</sup> This compares to £224 million in 2012-13.<sup>414</sup> The average cost per annum of secure accommodation by placement type 2013-14 breaks down as follows: secure training centre, £187,000; secure children's home, £209,000; and young offender institution, £60,000.

## **Note on the review's analysis of the data**

### **Review survey data**

In August 2015, Lord Laming wrote to all local authorities in England and Wales asking for information about offending by looked after children from each area. Over 100 local authorities responded, representing 60% of all local authorities in England and Wales. Responding local authorities appear representative of the total in that they care for 57% of the total population of looked after children aged 10 years and over.

### **Rates of convictions and cautions**

Table 1 shows the review survey data for the number of cautions and conditional cautions received by looked after children during the year ending 31 March 2015, and the number who received a conviction. There are about twice as many reported convictions as reported cautions and conditional cautions. The table compares this with data published by the YJB about the general population of children in England, which shows about 50% more sentencing than cautioning for all children in the same period. This suggests that looked after children who come to police attention may have a higher risk of being convicted as opposed to receiving a pre-court disposal, compared to children in the general population.

**Table 1 - Rates of offending by looked after children in year ending 31 March 2015 (Sources: Review survey data and YJB published data )**

	<b>Cautions and conditional cautions</b>	<b>Convictions</b>	<b>Total offending</b>	<b>All looked after children aged 10-17 years</b>	<b>Rate of offending</b>
<b>Reported offending (review survey data)</b>	549	1099	1648	25222	6.5%
<b>Percentage of all offending (review survey data)</b>	33.4%	66.8%	100%	-	-
<b>Reported offending all England (YJB published data)</b>	20080	30960	51040	-	-
<b>Percentage of all offending (England) (YJB published data)</b>	39.3%	60.7%	100%	-	-

### **Number and proportion of looked after children in custody**

We examined four sources of data in order to estimate the proportion of children and young people in custody in that year who were looked after. Section 104(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPOA) provides that a child who is remanded to youth detention accommodation is to be treated as a child who is looked after. While all these sources of data include those who were looked after before entering custody, they also include young people who are treated as looked after solely as a consequence of LASPOA. All the sources of data have limitations and are likely to under-estimate the true figures significantly, as explained below.

#### **HM Inspectorate of Prisons**

HMIP's survey data from 2014-15 indicates that 38% of children from England and Wales in YOIs and 52% of those in STCs had experience of local authority care, equating to about 340 children at any one time in that year, together with a further unknown number of looked after children placed in SCHs. These figures come from self report surveys. They therefore rely on the child knowing that they are looked after, understanding the question being asked and being willing to identify themselves as looked after. All of these facts might lead to inaccuracy, most plausibly an under-reporting of being in care.

#### **Department for Education**

The Department for Education publishes snapshot data collected by local authorities about the characteristics and circumstances of all looked after children on 31 March each year. This includes data showing where each looked after child is placed on 31 March, and data showing the legal status of looked after children which includes a 'youth justice' category. Neither of these two snapshots provides an accurate account of the number of looked after children in custody either under sentence or on remand.

The placements data for 31 March 2015 records 180 looked after children in secure units and 260 looked after children in YOIs or prison. These figures do not present a complete picture and are likely to under-estimate. There is no standard method for recording data across local authorities. The data include children detained in secure children's home for welfare reasons and it is not clear how local authorities record placements of children in STCs.

Data by legal status give the total for England of 290 children with Youth Justice Legal Status, including children detained under the Police and Criminal Evidence Act 1984 and children remanded by court under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. However this may not equate to all children in custody. After sentence, children may revert to their previous care status, so those who became looked after by remand to custody, return to their pre-remand care status when they receive a custodial sentence.

### **Youth Justice Board of England and Wales (YJB)**

The YJB does not have definitive information on the number of looked after children in custody. However, the Placement Information Form, which is completed by the youth offending team prior to the young person entering custody, includes the question, "Is the young person looked after by the Local Authority?" This is completed by the Youth Offending Team based on the information they hold at the time. This information has been matched to data on young people in custody.

The YJB kindly shared these provisional data with the review based on one snapshot day (3 April 2015). This data may be subject to variability and seasonality and therefore may not be representative of the full year, and should be treated as indicative only.

While these data include those who were looked after before entering custody, it also includes young people who are looked after only as a consequence of LASPOA.

Our analysis of these data suggests that approximately 45% of children in custody in England and Wales may be looked after, excluding those who have care status solely as a consequence of LASPOA.

### **Review survey data**

Our analysis of the review survey data indicates that just under one per cent of looked after children aged 10-17 in England and Wales were in custody on 31 March 2015, about a quarter of whom were in care solely as a consequence of LASPOA. This would equate to at least 400 looked after children in England and Wales being in custody on 31 March 2015. Over 100 local authorities responded to the review survey, a response rate of almost 60%. Responding local authorities appear representative of the whole, in that they care for 57% of the total population of looked after children aged 10 years and over.

The review survey asked local authorities for the number of looked after children in custody on 31 March 2015. The total was 244, with 31 local authorities reporting no child in custody.

Some local authorities provided additional clarification by distinguishing those on remand who were treated as looked after solely as a consequence of LASPOA. Of the 73 reported as on remand, 57 were treated as looked after solely as a result of LASPOA. These results suggest an overall percentage of 0.97% of looked after children aged 10-17 being in custody, with about a quarter of these being treated as looked after solely as a consequence of LASPOA.

Applying this percentage to the total number of looked after 10-17 year olds on 31 March 2015 (44,390) gives an estimate of 430 in custody on 31 March 2015, of whom 101 were treated as looked after solely as a consequence of LASPOA.

### **Our estimate of the numbers of looked after children in custody**

Based on the above sources of data, all of which have their limitations, we estimate that up to half of the children in custody in England and Wales at any one time are, or have been, looked after children. Our estimate includes children who have been sentenced and assumes all those held on remand are looked after children. Some of those held on remand will be looked after solely because of LASPOA, while others will already have been looked after before entering custody.

### **Looked after children from minority ethnic groups in custody**

Our analysis of YJB provisional outputs for the snapshot date of 3 April 2015 suggests an indicative figure of approximately 44% of looked after children who are currently in custody following sentence or in custody on remand being black, Asian or from another ethnic minority group. This is similar to the proportion of all children in custody who are from minority ethnic groups, namely around 40%.

## **Conclusions**

In her literature review accompanying this report, Dr Jo Staines points out that idiosyncrasies in the way that data are recorded can make it difficult to identify statistical correlations between being looked after and being involved in offending behaviour, and notes concerns about the accuracy and level of detail in the available data. Dr Staines notes that both official statistics and international research have demonstrated a correlation between experience of the care system and involvement in offending behaviour, although the strength of this association is debated.

The lack of reliable data appears to undermine both the recognition that the proportion of looked after children in the criminal justice system is a problem, and confidence in how to tackle it. In order to ensure that the protection of children in care from needless criminalisation is consistently prioritised, and to measure progress, it is essential to establish reliable baseline data and to ensure that this is publicly available on a permanent basis.

The data about looked after children in minority groups who are involved with the criminal justice system is particularly limited. This means that we have little understanding of the experiences of



looked after children in minority groups who come into contact with the criminal justice system, hampering progress in protecting these children from unnecessary criminalisation.

Based on the available data as described above, we have reached the following conclusions:

- (a) Most children in care do not get in trouble with the law. However, looked after children in England are six times more likely than children in the general population to be convicted of a crime or receive an out of court disposal.
- (b) There is no reliable source of published data on the numbers of looked after children in custody. The available data is likely to under-estimate the true figures significantly. We estimate that up to half of children and young people in custody at any one time are, or have been, looked after. This would include unsentenced children, some of whom will be looked after solely because of their remand status, while others will already have been looked after before entering custody.
- (c) Looked after children in custody show greater levels of need (as a group) compared to other children in custody, in areas such as mental health and worse outcomes in areas such as responding to behaviour incentive schemes.

## **Guidance note on recommendations 1.2, 7.1 and 7.2(b) – Improving the available data**

Under recommendation 1.2 of this review (see page v), we recommend that a cabinet sub-committee (in England) and equivalent body (in Wales) should ensure that common standards are set for the collection, analysis and publication of data about children and young people in the criminal justice system who are or have been in care so that we can all be better informed about their needs.

Under recommendation 7.1 (see page xi), we argue that data about looked after children's involvement in the criminal justice system should be regularly published and clearly disaggregated on the basis of ethnicity, faith, gender and disability and, where applicable, the type of custodial establishment in which children are held. We propose in recommendation 7.2(b) that the Lammy review should consider what gaps need to be filled in the available data to achieve equal treatment for all children and young people regardless of their ethnicity, and to measure progress.

In order to establish the true extent to which looked after children and young people are over-represented in the criminal justice system in general and in custody in particular, including those in minority groups, and to tackle such over representation and ensure the fair treatment of these children, we consider that the following improvements are needed in the collection, analysis and publication of data:

- (a) The Department for Education, Welsh government and Youth Justice Board for England and Wales should work together to improve the quality of the data that is collected and published about the involvement of looked after children in the criminal justice system. In particular they should collaborate to:
- (i) Consult with local authorities, including youth justice services, as to how they currently collect data on offending by looked after children in their care and how they believe this practice could be improved to achieve consistency and accuracy;
  - (ii) Produce clear guidance for the future collection of such data by local authorities, based on the outcome of this consultation. This should include the collection of data on offending by all looked after children, not only those continuously in care for 12 months; and
  - (iii) Ensure that in future data about looked after children's involvement in the criminal justice system is regularly published and clearly disaggregated on the basis of ethnicity, faith, gender and disability and, where applicable, the type of custodial establishment in which children are held.
- (b) HM Inspectorate of Prisons should publish disaggregated data on children in custody who are currently looked after and were previously looked after, based on their annual survey.

# Appendix Four – Review membership activities and evidence received

## Review members

### Chair

The Rt. Hon. the Lord Laming CBE DL

### Review members (in alphabetical order)

Caroline Adams – Staff Officer for National Children & Young Persons Portfolio - National Police Chiefs Council representing Olivia Pinkney QPM, Chief Constable of Hampshire

John Bache – Deputy Chairman – Magistrates Association

Sally Bartolo – Peer Outreach Team Manager – Education and Youth Team – Greater London Authority

Tim Bateman - Principal Policy Advisor (Youth Justice), Children’s Commissioner for England

Ben Byrne – Association of Youth Offending Team Managers (England)

Stuart Carlton – Board Member – Association of Directors of Children’s Services

Teresa Clarke – Governor – HM Young Offender Institution, Swinfen Hall and NOMS Care Leavers’ Champion

Jeremy Crook – Director – Black Training and Enterprise Group

Darren Coyne – Project Manager – Care Leavers’ Association

Natasha Finlayson – Chief Executive – Who Cares? Trust

Shauneen Lambe – Executive Director – Just for Kids Law

Lord McNally – Chair – Youth Justice Board for England and Wales

Mary O’Grady – Chair – YOT Managers Cymru

Elizabeth Rantzen – Trustee – Prison Reform Trust

Nigel Richardson - Director of Children’s Services - Leeds City Council

Councillor David Simmonds – Chair of Local Government Association’s Children and Young Persons’ Board

Enver Solomon – Director of Evidence and Impact – National Children’s Bureau

Dr Jo Staines – Director BSc Childhood Studies Programme – Hadley Centre for Adoption and Foster Care Studies, Bristol University

Chris Stanley – Trustee – Michael Sieff Foundation

Professor Mike Stein – Research Professor - Social Policy Research Unit, University of York

Baroness Lola Young – Crossbench Peer - House of Lords

In addition, eight young people with experience of care and the criminal justice system have been members of the review panel.

### Prison Reform Trust staff and pro bono assistance

John Drew CBE (Secretary to the care review)

Justin Elder (Executive Assistant)

Juliet Lyon CBE (Director, Prison Reform Trust)

Katy Swaine Williams (Care review co-ordinator)

Dr Pamela Storey (Pro bono researcher) (formerly of Thomas Coram Research Unit, Institute of Education, University of London)

Grace Wyld (Volunteer)

## About the review

In April 2015 Lord Laming accepted the Prison Reform Trust's invitation to chair an independent review of looked after children in the criminal justice system, 'Keeping children in care out of trouble'. The review was launched in June 2015 with this central question:

*to consider the over representation of children in care, or with experience of care, in the youth justice system - why, for example, when only fewer than 1% of children and young people are committed to the care of local authorities<sup>415</sup>, yet a third of boys and 61% of girls in custody are, or have been, in care<sup>416</sup> - and to make recommendations as to how the life opportunities for children and young people in care or with experience of care, who are at risk of being avoidably drawn into the youth justice system, can be transformed.<sup>417</sup>*

It was agreed that the review would:

- (a) bring together a group of young people who are, or have recently been, in care to consult them about the review and, throughout its course, to ensure that the review benefits from their insight and knowledge;
- (b) seek evidence from children and young people, family members and carers, and relevant professional bodies;
- (c) produce an accurate count of the number of children in custody in England and Wales who are, or have been, in care;
- (d) summarise the research published, and currently being undertaken, in this area;
- (e) capture international evidence of good practice;
- (f) identify current best practice in England and Wales to inform the review;
- (g) make recommendations for national government, including its Inspectorates, to consider;
- (h) make recommendations for local authority lead members for Children's Services, Directors of Children's Services and other relevant agencies to consider; and
- (i) publish and disseminate findings and recommendations and work to ensure they are implemented.

Lord Laming invited a broad range of senior practitioners and experts in children's social care and youth justice to sit on the review panel (page 149). The review panel members have drawn on their considerable experience and knowledge to advise the review. A children and young people's consultation group was established whose eight members aged 14 to 23 years, all with experience of care and the criminal justice system, were also full review panel members.

## Oral evidence sessions

25 June 2015: Young people aged 15, 17 and 21 with experience of care and the criminal justice system, supported by the Care Leavers' Association

- 10 September 2015: Isabelle Trowler, Chief Social Worker for Children and Families  
Chief Inspector Claire Riley, Staffordshire Police
- 22 October 2015: Mary Candlin and Matthew Brazier, Ofsted  
Frontline social workers - Colin Edwards,  
Brydee Lynch, Kelly Mendonca and Ryan Wise  
Professor Mike Stein, University of York
- 3 December 2015: Charlie Taylor, independent youth justice review lead  
Surrey County Council Youth Support Service and Surrey Police
- 3 February 2016: Review panel members heard evidence from social workers placed in  
young offender institutions

The review panel held further meetings on 11 February 2016 and 14 April 2016 to discuss draft recommendations and plans for launch and implementation.

## Children and young people's consultation group meetings

15 October 2015, Big House Theatre Company in London

14 December 2015, Carrs Lane Conference Centre in Birmingham

12 January 2016, Google UK in London

Discussions at these meetings focused on the young people's experiences of care and the criminal justice system and what they think needs to change.

## Other meetings, visits and events

A number of requests were received from individuals to meet the review team to talk about their personal experiences of care and the criminal justice system. These requests were met where possible, with assistance from review members. Further meetings and discussions were held as follows:

- 3 August 2015 **Serco:** Katy Swaine Williams met with representatives from Serco to answer queries about the review.
- 8 September 2015 **Jonathan Hannay, ACER:** Lord Laming and Katy Swaine Williams met Mr Hannay to discuss the approach taken by his organisation in Brazil to supporting families at risk.
- 24 September 2015 **Social Care National Consultative Forum, hosted by Ofsted in London:** discussion led by John Drew, secretary to the review.

- 1 October 2015      **Meeting of North West England children’s residential care leads in Hyde:** John Drew, secretary to the review, held discussions with 22 local authority heads and commissioners of children’s residential care, at the invitation of Tameside Metropolitan Borough Council’s children’s services.
- 14 October 2015      **Annual conference of the Association of Directors of Children’s Services in Bournemouth:** John Drew, secretary to the review, and review members Sam Davey and Darren Coyne of the Care Leavers’ Association, Stuart Carlton of Lincolnshire children’s services, and Chris Stevens of Surrey County Council, led a workshop attended by 88 delegates.
- 16 November 2015      **Adel Beck Secure Children’s Home, Leeds:** Lord Laming and members of the review panel met with children and young people and practitioners from across Leeds children’s services and youth offending service, at the invitation of Nigel Richardson, Director of Children’s Services in Leeds.
- 25/26 November 2015      **Youth Justice Convention, Leicester:** Juliet Lyon, secretariat member, spoke to delegates about the over-representation of looked after children in the youth justice system. John Drew, secretary to the review, and review panel members heard evidence from the following practitioners about their work to protect looked after children from criminalisation:

Kamran Abassi	Managing Director, Care for Children
Kevin Bakewell	Manager, Plymouth YOT
Lauren Barwell	Social Worker, Cheshire East Youth Engagement Service
Paul Cook	Director of Children’s Services, G4S
Anne-Marie Day	PhD Student and University of Salford
Lyndsey Dye	Youth Justice Worker, Norfolk YOT
Anna Gianfrancesco	Head of YOT, Brighton & Hove City
Sue Gregory	Director of Youth Education and Employability, Everton in the Community (with Lara Hollingsworth and Ant Harden)
Alexis Grey	Resettlement Link Officer, South and West Yorkshire
Gerry Harford	Service Manager, Youth Support Team Gloucestershire
Jean Maddox	Social Worker, Derbyshire Youth Offending Team

Richard Mold	Exeter and East Devon YOS
Amri Panesar	YOS County Manager, Oxfordshire Youth Offending Service
Karen Potton	Hertfordshire Constabulary Inspector, Children and Young People's Team
Mike Rees	YOT manager, North Somerset
Rose Richards	Parenting Coordinator, Flintshire
Yvonne Surman	Safe Schools & Communities Team Manager, Dorset Police
Nicola Sylvester	Clinical Psychologist, Lincolnshire
Bob Uden	Nottingham City YOT
Hazel Williamson	Team Leader, Stoke on Trent YOS
Dave Wraight	YOT Manager, West Berkshire

- 17 December 2015      **Reducing Reoffending Forum meeting, Surrey County Council Youth Support Service in Woking:** Members of the review secretariat and panel attended this meeting, talking to 30-40 practitioners from the local area about reducing offending by looked after children and young people.
- 14 January 2016      **National Police Chiefs Council conference on working with children and young people:** Juliet Lyon, secretariat member, discussed with representatives from police forces the work they are doing to protect children in care from criminalisation and the challenges faced.
- 26 January 2016      **Sir Martin Narey, review of residential children's care:** Lord Laming met Sir Martin Narey with members of the review secretariat to discuss their respective reviews.
- 16 February 2016      **Jonathan Stanley of the Independent Children's Homes Association:** meeting with John Drew and Katy Swaine Williams to discuss the over representation of looked after children in the criminal justice system.
- 24 February 2016      **Westminster Education Forum Seminar:** Juliet Lyon, secretariat member, discussed with representatives from children's social care the over representation of looked after children in the criminal justice system.
- 16 March 2016      **Jaswant Narwal, Chief Crown Prosecutor, CPS South East Area:** meeting with Juliet Lyon and John Drew to discuss the over representation of looked after children in the criminal justice system.

- 30 March 2016 **Welsh government officials and stakeholders:** meetings held by members of the review secretariat and panel to discuss the Welsh arrangements concerning looked after children and the youth justice system.
- 19 April 2016 **Nikki Stickland, Centre Forum:** meeting with Katy Swaine Williams to discuss children in care with learning and development disabilities and speech, language and communication needs.
- 9 May 2016 **Raj Heer and Thomas-Owain Wood of the Department for Education (Children in Care team):** meeting with Katy Swaine Williams and Juliet Lyon to discuss the review.

### **Focus groups with young people**

- 13 January 2016 **HMPYOI Feltham:** Focus group meeting led by the Black Training and Enterprise Group on behalf of the review with young black and minority ethnic people, to discuss their experience of care and the criminal justice system.
- 23 February 2016 **Big House Theatre Company:** Focus group meeting led by the Black Training and Enterprise Group on behalf of the review with young black and minority ethnic people, to discuss their experience of care and the criminal justice system.
- 7 March 2016 **City Hall:** Focus group meeting organised by Sally Bartolo, panel member and Peer Outreach Team Manager for the Greater London Authority, with young women to discuss their experience of care and the criminal justice system.



## Research and data analysis

In August 2015 Lord Laming wrote to all local authority chief executives in England and Wales to ask for their help in gathering local data about the involvement of children in care in the criminal justice system. Responses were received from almost 60% of local authorities and an analysis of the data received is included in appendix three.

Assistance with data gathering was also kindly provided by the Youth Justice Board for England and Wales, HM Inspectorate of Prisons, the Department for Education and the Welsh government. Particular thanks go to Pamela Storey for volunteering her time to conduct data analysis, and to Dr Jo Staines for producing a literature review.

## Written submissions

- 1 Foster carer
- 2 SEN teacher
- 3 Professor Ravinder Barn, Royal Holloway, University of London
- 4 Health and wellbeing practitioner
- 5 Adult with experience of care
- 6 Retired deputy head of LAC education service
- 7 Registered care home manager
- 8 Unknown
- 9 Success Feelosphy, learning consultancy
- 10 Youth worker and social worker
- 11 Foster carer
- 12 Jane Farrow, Birmingham University
- 13 Social worker
- 14 Leicestershire County Council
- 15 Foster carer
- 16 Adult with experience of care
- 17 Education support worker
- 18 Grandparent of looked after child
- 19 Adoptive parent and social worker
- 20 Carol Kellas, retired magistrate and school governor
- 21 Foster carer
- 22 Adult with experience of care
- 23 Social work professional
- 24 Adult with experience of care
- 25 Foster carer and adoptive parent
- 26 Unknown
- 27 Adult with experience of care
- 28 Sibling of care leaver
- 29 Unknown
- 30 Manager, secure children's home
- 31 The Springboard Bursary Foundation
- 32 Social worker and foster carer
- 33 Foster carer
- 34 Consultant
- 35 Independent consultant
- 36 Foster carer
- 37 Adult with experience of care

- 38 Social worker
- 39 Social worker
- 40 Consultant
- 41 International Social Service Network
- 42 Core Assets Transformation & Rehabilitation
- 43 Unknown
- 44 Foster carer
- 45 Her Majesty's Inspectorate of Probation
- 46 Police officer
- 47 Consultant child and adolescent psychiatrist
- 48 Adult with experience of care
- 49 Social worker
- 50 Professor Gillian Schofield, University of East Anglia
- 51 Retired youth magistrate
- 52 Independent social worker
- 53 Dr Julie Shaw, Liverpool John Moores University
- 54 Speech and language therapist
- 55 Former head teacher
- 56 Foster carer with experience of care
- 57 Unknown
- 58 Adoptive mother and deputy headteacher
- 59 Social work professional
- 60 Parent of looked after child, Scotland
- 61 Retired probation officer
- 62 Adult in prison with experience of care
- 63 Retired magistrate
- 64 Dartington Social Research Unit
- 65 Jackie Hamilton, magistrate and chair of Central Kent Youth Panel
- 66 Former adolescent care worker
- 67 Retired care home manager
- 68 Adult in prison with experience of care
- 69 Dr Peter McParlin
- 70 Retired teacher
- 71 Foster carer
- 72 Independent social worker and psychotherapist
- 73 Mary Lowles, magistrate and former social worker
- 74 Former children's social worker with experience of care
- 75 Mark Kerr, University of Kent at Canterbury
- 76 Youth offending service
- 77 Bernadette MacDonald-Raggett, Restore Support Network
- 78 LACES team manager
- 79 Leaving Care Personal Adviser
- 80 Adult with experience of care
- 81 Police Service of Northern Ireland
- 82 Foster carer
- 83 TACT
- 84 Founder of children's charity
- 85 Retired psychiatric nurse with experience of care
- 86 Association of Child Psychotherapists
- 87 Everton Football Club - Everton in the Community
- 88 Retired appropriate adult with experience of care
- 89 First Campus, University of South Wales

- 90 The Fostering Network
- 91 Remand foster carer
- 92 Looked after child
- 93 PET-XI Training
- 94 MOPAC
- 95 Adult in prison with experience of care
- 96 Former social worker
- 97 Adult with experience of care
- 98 Dr Claire Fitzpatrick, Lancaster University
- 99 Sarah Curtis, former youth magistrate
- 100 Adoptive parent and teaching assistant
- 101 Margaret Wilson OBE, youth and family magistrate
- 102 Buckinghamshire County Council
- 103 West Berkshire Youth Offending Team
- 104 Dr Jamie Harding, Northumbria University
- 105 Howard League for Penal Reform
- 106 London Boroughs of Hammersmith and Fulham and Kensington and Chelsea
- 107 Wokingham Youth Offending Service
- 108 Stephen Pearce, YOS worker, Powys Youth Justice Service
- 109 Adam Lightowler, YOS worker, Powys Youth Justice Service
- 110 Michael Rice PHD, University of Cambridge
- 111 Drive Forward Foundation
- 112 Adult with experience of care and his adoptive parent
- 113 Men's Aid
- 114 Centre for Mental Health
- 115 Surrey County Council and Surrey Police
- 116 Yorks & Humber Regional Youth Offending Nurse Forum
- 117 Bradford District Care Trust's LAC & YOT Health Teams
- 118 The Association of Panel Members
- 119 Provider of children's education and care services
- 120 Royal College of Paediatrics and Child Health
- 121 Centre for Youth and Criminal Justice
- 122 British Psychological Society
- 123 Foster carer
- 124 Looked after child
- 125 Residential care worker
- 126 Adult with experience of care
- 127 Ofsted
- 128 Sova
- 129 British Association of Social Workers (England)
- 130 Dr Kate Gooch and Dr James Treadwell, Birmingham Law School
- 131 Children's Services Development Group
- 132 Youth magistrate
- 133 Youth justice service
- 134 Agenda
- 135 Valerie Dunn, research associate, University of Cambridge
- 136 HM Inspectorate of Prisons for Scotland
- 137 Residential children's home manager
- 138 Grandparents of looked after child
- 139 Restorative Justice Council
- 140 National Association for Youth Justice
- 141 Senior YOT officer

- 142 Deborah Maggs, magistrate
- 143 SMASH youth project
- 144 Kimberley Anne Marsh, University of Manchester
- 145 YOT Managers Cymru
- 146 Adult with experience of care
- 147 Chartered psychologist and senior BACP accredited psychotherapist
- 148 Lincolnshire Police
- 149 Warwickshire Police and West Mercia Police
- 150 National Police Chiefs Council
- 151 Leicestershire Cares
- 152 Leaving Care service
- 153 Nene Valley Care Trust
- 154 Llamau
- 155 Brighton and Hove City Council
- 156 Anne-Marie Day, University of Salford
- 157 National Offender Management Service
- 158 Children's services consultant and independent reviewing officer
- 159 Jonathan Evans, University of South Wales
- 160 Sharon McIntyre, welfare reform manager, Scotland
- 161 Tim Chapman, Ulster University
- 162 Inquest
- 163 Retired magistrate
- 164 Voices from Care
- 165 The Children's Society
- 166 Serco
- 167 Carolyne Willow, Article 39
- 168 Barnardo's
- 169 Looked after child
- 170 Looked after child
- 171 Foster carers
- 172 Catch 22
- 173 Welsh Local Government Association
- 174 Magistrates' Association
- 175 Young people's mental health charity
- 176 Leeds City Council
- 177 Independent Visitor
- 178 Ceredigion youth offending service
- 179 Family Rights Group
- 180 Independent Children's Homes Association
- 181 Kelly Mendonca, social worker, Frontline
- 182 Brydee Lynch, social worker, Frontline
- 183 Colin Edwards, social worker, Frontline
- 184 Ryan Wise, social worker, Frontline
- 185 Youth Justice Board for England and Wales
- 186 NSPCC
- 187 Adult in prison with experience of care
- 188 Walsall Children's Services
- 189 Southern Health NHS Foundation Trust Children in Care Team
- 190 Future 4 Me project, 1625IP
- 191 Foster carer
- 192 Care home manager

- 193** Royal College of Speech and Language Therapists
- 194** Blaenau Gwent and Caerphilly YOS
- 195** Right Step
- 196** Waltham Forest Early Help (Youth Justice)
- 197** Nottingham Youth Offending Service
- 198** Essex Youth Offending Service
- 199** Criminology undergraduate
- 200** Magistrate
- 201** Crown Prosecution Service
- 202** Professor Mike Stein, University of York
- 203** Foster carer
- 204** Croydon Council
- 205** Sunderland Youth Offending Service
- 206** Black Training and Enterprise Group
- 207** Big House Theatre Company
- 208** Care leaver with experience of the criminal justice system
- 209** ECPAT UK
- 210** Philippa Southwell, solicitor
- 211** Social worker
- 212** Muslim Youth Helpline
- 213** YOI-placed social worker
- 214** Trafford Youth Offending Service
- 215** YOI-placed social workers
- 216** Academic
- 217** YOI-placed social worker
- 218** Pause
- 219** Youth justice worker
- 220** Care leaver with experience of the criminal justice system
- 221** Imkaan
- 222** Aylish Alexander Solicitors

# Endnotes

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Oral evidence session, 25 June 2015.

Prime Minister's party conference speech, October 2015:

<http://press.conservatives.com/post/130746609060/prime?minister?conference?speech?2015>

3 The cabinet sub-committee should have senior ministerial representation from all relevant government departments, including the Department for Education, Home Office, Ministry of Justice, Department of Health and Department for Communities and Local Government.

See Appendix One for further guidance on the proposed concordat on protecting looked after children from criminalisation.

The relevant inspectorates are Ofsted (in England) and the Care and Social Services Inspectorate and Estyn (in Wales).

Department for Education (January 2016) Children's social care reform: A vision for change  
DfE

All Party Parliamentary Group for Children (2015) Building Trust: One Year On, London: NCB

This is also reflected in the Care Leavers' Association's recommendations to government which identify the need for a cultural change in the understanding of, and responses to, looked after children and care leavers in the criminal justice system: [www.careleavers.com](http://www.careleavers.com)

The Restorative Justice Council explains: 'In any setting involving children and young people, restorative approaches teach an understanding of others' feelings and the ability to communicate successfully. They enable young people to think for themselves about how to respond to challenging situations. And they enable young people to build trust and develop more mature responses to a difficult situation...' (Submission 139)

[www.gov.uk/government/news/review-of-racial-bias-and-bame-representation-in-criminal-justice-system-announced](http://www.gov.uk/government/news/review-of-racial-bias-and-bame-representation-in-criminal-justice-system-announced)

See the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Submission 197 – Nottingham Youth Offending Service

Table 4, Department for Education (2015) Outcomes for children looked after by local authorities, 31 March 2014, London: DfE

Table 4, Department for Education (2015) Outcomes for children looked after by local authorities, 31 March 2014, London: DfE

Redmond, A. (2015) Children in Custody 2014-15: An Analysis of 12-18 year olds' perceptions, experience in secure training centres and young offender institutions, London: HM Inspectorate of Prisons

Department for Education (2013) Children looked after in England year ending 31 March 2013, London: DfE, StatsWales website, and Office for National Statistics (2013) Population estimates for persons for England and Wales and regions Mid-1971 to Mid-2012, London: ONS

House of Commons Committee of Public Accounts (2015) Children in Care: Forty-fourth Report, Session 2014-15, London: TSO; National Audit Office (2014) Children in care, London: NAO; National Audit Office (2015) Care leavers' transitions to adulthood, London: NAO

House of Commons Justice Committee (2013) Youth Justice, London: TSO

All-Party Parliamentary Group for Children (2015) Building trust: One year on. Progress in building good relationships between children and the Police: Follow on report of the inquiry held by the All-Party Parliamentary Group for Children 2013-14, London: NCB; All-Party Parliamentary Group for Children (2014) It's all about trust. Building good relationships between children and the Police: Report of the inquiry held by the All-Party Parliamentary Group for Children 2013-14, London: NCB

To become a signatory of the Concordat, contact: [PACConcordat@homeoffice.gsi.gov.uk](mailto:PACConcordat@homeoffice.gsi.gov.uk)

HMIP (2011) Thematic report by HM Inspectorate of Prisons. The care of looked after children in custody. A short thematic review, London: HMIP

Oral evidence session, 3 February 2016.

Ministry of Justice (9 February 2016) Review of the youth justice system: an interim report on findings, London: Ministry of Justice: <https://www.gov.uk/government/publications/review-of-the-youth-justice-system>

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Department for Education (2015) The Children Act 1989 Guidance and Regulations. Volume 2: Planning, Placement and Case Review, London: DfE; Welsh government (2016) Codes of practice: statutory guidance to support the implementation of the Social Services and Well-being (Wales) Act 2014, Cardiff: Welsh government

HMIP (2015) Joint thematic inspection of resettlement services to children by Youth Offending Teams and partner agencies, London: HMIP: <http://www.cqc.org.uk/content/joint?thematic?inspection?resettlement?services?children>

Department for Education (January 2016) Children's social care reform: A vision for change  
DfE

Department for Education (2016) Overview of the Children's Social Care Innovation Programme  
London: DfE:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/342051/Overview\\_of\\_the\\_Children\\_s\\_Social\\_Care\\_Innovation\\_Programme.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342051/Overview_of_the_Children_s_Social_Care_Innovation_Programme.pdf)

Spring Consortium website: <http://springconsortium.com/>

Ministry of Justice (9 February 2016) Review of the youth justice system: an interim report and findings, London: Ministry of Justice: <https://www.gov.uk/government/publications/review-of-youth-justice-system>

Press release by the Prime Minister, The Rt. Hon. David Cameron MP, and Education Secretary, Hon. Nicky Morgan MP, 28 October 2015: [www.gov.uk/government/news/childrens-residential-care-review-to-transform-lives](http://www.gov.uk/government/news/childrens-residential-care-review-to-transform-lives)

Submission 149: Warwickshire Police and West Mercia Police

Staffordshire Police, oral evidence session, 10 September 2015

Submission 14: Leicestershire County Council

Submission 115: Surrey County Council and Surrey Police

Submission 176: Leeds City Council

Submission 194: Blaenau Gwent and Caerphilly Youth Offending Service

Submission 196: Waltham Forest Youth Offending Service/Early Help

Information provided by Manchester Youth Offending Services

Staines, J. (2016) Risk, adverse influence and criminalisation: Understanding the over-represented looked after children in the youth justice system, London: Prison Reform Trust

Unless otherwise stated, quotes from young people in this report are taken from oral evidence sessions, meetings and focus groups conducted as part of the review.

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-07-04/HCWS57/>

Submission 55 ? Former head teacher

See for example: DfE (2015) Children Act 1989 and guidance and regulations; The Children's Social Care Regulations 2015 and Department for Education (2015) Guide to the Children's Social Care Regulations, including the quality standards, London: DfE.

Prime Minister's party conference speech, October 2015:

<http://press.conservatives.com/post/130746609060/prime-minister-conference-speech-2015>

Department for Education (January 2016) Children's social care reform: A vision for change  
DfE

Submission 115 – Surrey County Council and Surrey Police

Submission 176 – Leeds City Council

Submission 149 – Warwickshire Police and West Mercia Police

Submission 14 – Leicestershire County Council

Staffordshire Police, oral evidence session, 10 September 2015

Department for Education (January 2016) Children's social care reform: A vision for change  
DfE

See: All-Party Parliamentary Group for Children (2015) Building trust: One year on. Progress in building good relationships between children and the Police: Follow on report of the inquiry into the All-Party Parliamentary Group for Children 2013-14, London: NCB; All-Party Parliamentary Group for Children (2014) It's all about trust. Building good relationships between children and the Police: Report of the inquiry held by the All-Party Parliamentary Group for Children 2013-14, London: NCB; Department for Education (2013) Behaviour Management and Reducing Offending by Children and Young People

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in Children's Homes, London: DfE ; House of Commons Justice Committee (2013) Youth Justice  
London: TSO <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmjust/339/339.pdf>  
HMI Probation (2012) Looked after children: an inspection of the work of Youth Offending Teams  
children and young people who are looked after and placed away from home: a Joint Inspection  
Probation, Ofsted and Estyn, London: HMIP; Schofield, G. et al (2012) Looked after children  
offending: reducing risk and promoting resilience, London: TACT and UEA; Nacro (2012) Reducing  
offending by looked after children, London: Nacro

Department for Education (2013) Behaviour Management and Reducing Offending by Children Placed  
in Children's Homes, London: DfE

Howard League for Penal Reform (2016) Criminal Care, London: Howard League for Penal Reform  
Submission 200 – Magistrate (comments collated from other magistrates)

Submission 20 – Carol Kellas; Submission 63 – retired magistrate; Submission 65 – Jackie Hamilton  
and Chair of Central Kent Youth Panel; Submission 73 – Mary Lowles JP

Submission 51 ? Retired youth magistrate

Submission 23 ? Social work professional

Submission 65 – Jackie Hamilton, JP and Chair of Central Kent Youth Panel

Submission 180 – Independent Children's Homes Association

National Police Chiefs' Council (2015) National Strategy for the Policing of Children and Young People  
London: NPCC

A new outcome code (Outcome Type 21) issued by the Home Office in January 2016 may allow the  
police some discretion in this area. Outcome Type 21 allows the police to make the following  
record and take no further action where this is not in the public interest: Further investigation  
resulting from the crime report that could provide evidence sufficient to support formal action  
taken against the suspect is not in the public interest – police decision. This means that  
officers determine to record an Outcome Type 21, the child accused of an offence will still  
the record. The Disclosure and Barring Service has agreed that they will give a presumptive  
disclose such a record in an enhanced record check unless there is a reason to do so (such as  
offences on the same person's record). However, it remains possible that it could be disclosed  
Office Counting Rules for Recording Crime, issued January 2016:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/489732/count?  
general?january?2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/489732/count?general?january?2016.pdf)

Home Office Counting Rules for Recording Crime, issued January 2016:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/489732/count?general?  
january?2016.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/489732/count?general?january?2016.pdf)

ibid

National Children's Bureau (2015) Building Trust: One Year On. Progress in improving relationships  
between children and the Police. Follow on report of the inquiry held by the All Party Parliamentary  
Group for Children 2013-14, London: NCB

Submission 81 – Police Service of Northern Ireland

Submission 139 – Restorative Justice Council

The Youth Restorative Intervention is a pre-court disposal which is an alternative to the  
youth conditional caution and prosecution and is described in individual story 1 in Appendix  
[http://www.surreycc.gov.uk/\\_\\_data/assets/pdf\\_file/0020/34436/YRI?Report?FINAL.pdf](http://www.surreycc.gov.uk/__data/assets/pdf_file/0020/34436/YRI?Report?FINAL.pdf)

Multi-systemic therapy (MST) is an intensive community-based therapy whose goal is to break  
cycle of anti-social behaviours by keeping young people safely at home, in school, and out  
MST works to increase the skills and resources of the parents and carers to manage their young  
person's behaviours more effectively. MST therapists go to where the young person lives and  
school. MST therapists work intensively with families, meeting with the family and other people  
young person's life several times a week. Visiting the family in their home and community  
the likelihood that they will successfully engage in MST because appointments are arranged at  
convenient times and locations making it easier for them to attend. Therapists receive a  
training and supervision and use approaches, such as behavioural therapy, cognitive behavioural  
therapy and structured family therapy to work with young people and their families. The  
Integrated Transitions (MST FIT) model uses standard MST principles with additional components  
address the specific issues and contexts of young people returning home. Goals of the FIT model  
include strengthening family relationships, improving young people's mental health, supporting  
social development and lowering the risk of offending where this is part of the presenting



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Also, connecting the family with appropriate community supports and supporting the young people reintegrating into school and to develop positive peer relationships. Source: MST UK website on 30 April 2016 [www.mstuk.org](http://www.mstuk.org)

Submission 149 – Warwickshire Police and West Mercia Police

Submission 14 ? Leicestershire County Council

Submission 14 ? Knight, V. et al Evaluation of the Restorative Approaches Project in Children's Residential Homes across Leicestershire: Final Report Leicester: De Montfort University

Oral evidence session, 10 September 2015

[www.justice.gov.uk/downloads/youth?justice/effective?practice?library/reduce?offending?and?criminalisation?of?children?in?care?protocol.pdf](http://www.justice.gov.uk/downloads/youth?justice/effective?practice?library/reduce?offending?and?criminalisation?of?children?in?care?protocol.pdf)

Ministry of Justice (2015) Review of the Youth Justice System. An interim report of emerging findings London: MoJ

The cabinet sub-committee should have senior ministerial representation from all relevant departments, including the Department for Education, Home Office, Ministry of Justice, Department of Health and Department for Communities and Local Government.

See Appendix One for further guidance on the proposed concordat on protecting looked after children from criminalisation.

The relevant inspectorates are Ofsted (in England) and the Care and Social Services Inspectorate and Estyn (in Wales).

Department for Education (January 2016) Children's social care reform: A vision for change London: DfE

All Party Parliamentary Group for Children (2015) Building Trust: One Year On, London: NCB

Submission 96 ? Former social worker

Submission 10 ? Youth worker and social worker

Department for Education, Statistical First Release SFR34/2015, London DfE

Submission 9 ? Success Feelosophy consultancy

Submission 129 – British Association of Social Workers (England)

Submission 134 ? Agenda

Submission 84 ? Founder of children's charity

Submission 73 ? Mary Lowles JP, former social worker

Action for Children website, viewed on 04/03/16 – A Stitch in Time campaign launched in 2015. <https://www.actionforchildren.org.uk/what?we?do/policy?and?research/support?for?children?and?families/a?stitch?in?time/>

Allen, G. (2011) Early Intervention: The Next Steps – An Independent Report to Her Majesty's Government

Chowdry, H. et al (2015) Spending on late intervention: how we can do better for less, London: EIF <http://www.eif.org.uk/publication/spending?on?late?intervention?how?we?can?do?better?for?less>

Speech by The Rt. Hon. Nicky Morgan MP, then Secretary of State for Education at the Early Intervention Foundation conference on 12 February 2015: <https://www.gov.uk/government/speeches/nicky?morgan?speaks?at?early?intervention?foundation?conference>

Association for Directors of Children's Services (2013) That difficult age: developing a more effective response to risks in adolescence, London: ADCS

Submission 63 ? Retired magistrate

Submission 83 ? TACT

Meeting with Jonathan Hannay of ACER, 8 September 2015; [www.acerbrasil.org.br/arquivos/publicacoes/Livros/SFSCIN.pdf](http://www.acerbrasil.org.br/arquivos/publicacoes/Livros/SFSCIN.pdf)

Submission 19 ? Adoptive parent and social worker

Submission 7 ? Registered care home manager

Submission 11 ? Foster carer

Submission 20 ? Carol Kellas, retired magistrate and school governor

Schofield, G. et al (2012) Looked after children and offending: reducing risk and promoting positive outcomes London: TACT and UEA

Submission 72 ? Independent social worker and psychotherapist

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Submission 58 ? Adoptive mother

For example Submission 119 ? Provider of children s education and care services

The percentage with three or more placements has remained the same since 2010. (Department for Education, Statistical First Release SFR34/2015)

Welsh government (2015) StatsWales, Cardiff: Welsh government

Submission 96 ? Former social worker

Submission 85 ? Retired psychiatric nurse with experience of care

Care Planning, Placement and Case Review (England) Regulations 2010 as amended

Department for Education (2015) The Children Act 1989 Volume 2: care planning, placement and case review guidance, London: DfE

Department for Education (2015) The Children Act 1989 Volume 2: care planning, placement and case review guidance, London: DfE

Submission 78 ? LACES team manager

Submission 90 – The Fostering Network

Submission 65 ? Jackie Hamilton JP

Submission 200 ? Magistrate (comments collated from other magistrates)

Ofsted (2015) Children Looked after placement by English local authorities: Ofsted

Meeting between John Drew and North West Residential Child Care Managers, 1 October 2015.

Submission 35 – Independent consultant

Submission 35 – Independent consultant

Submission 83 ? TACT

Submission 52 ? Independent social worker

Submission 5 ? Adult with experience of care

Submission 80 ? Adult with experience of care

Submission 23 ? Social work professional

Submission 93 – PET?Xi Training

Fostering Network media release 07/01/16: <https://www.thefosteringnetwork.org.uk/media?release=2016/over%9000%3Fmore%3Ffostering%3Fhouseholds%3Furgently%3Fneeded%3Fduring%3F2016>

Submission 90 – The Fostering Network

Submission 100 ? Adoptive parent and teaching assistant

Submission 11 ? Foster carer

Submission 33 ? Foster carer

Submission 6 ? Retired deputy head of LAC education service

Submission 66 ? Former adolescent care worker

Submission 86 – Association of Child Psychotherapists

Submission 93 – PET?Xi Training

Submission 58 ? Adoptive mother and deputy head teacher

Submission 30 ? Manager, secure children s home

Submission 78 ? LACES team manager

The Who Cares? Trust explains social pedagogy is an approach to caring for children which combines education and care, emphasising that bringing up children is the shared responsibility of society. A key principle is that the child is in charge of his or her own life, and the social workers alongside them rather than dictating what they should do. The Who Cares? Trust website, viewed 10/03/16: [www.thewhocarestrust.org.uk/pages/social%3Fpedagogy%3Fwhat%3Fis%3Fit.html](http://www.thewhocarestrust.org.uk/pages/social%3Fpedagogy%3Fwhat%3Fis%3Fit.html)

Submission 44 ? Foster carer

Submission 1 ? Foster carer

Submission 33 ? Foster carer

Department for Education (2015) Government response to consultation on knowledge and skills statements for child and family social workers, London: DfE:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478277/Government\\_response\\_to\\_consultation\\_on\\_knowledge\\_and\\_skills\\_statements.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478277/Government_response_to_consultation_on_knowledge_and_skills_statements.pdf)

Department for Education (2015) Knowledge and skills statements for child and family social workers

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London: DfE: <https://www.gov.uk/government/publications/knowledge-and-skills-statements-for-child-and-family-social-work>

Department for Education (2015) Consultation on knowledge and skills for child and family – government response, London: DfE:  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/379033/Consultation\\_on\\_knowledge\\_and\\_skills\\_for\\_child\\_and\\_family\\_social\\_work\\_-\\_government\\_response.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/379033/Consultation_on_knowledge_and_skills_for_child_and_family_social_work_-_government_response.pdf)  
<http://www.thefrontline.org.uk/>; submissions 181?184

Submission 30 ? Manager, secure children s home

Leeds City Council website, viewed 1 May 2016: [www.leeds.gov.uk/docs/84%20%20Workforce%20Development%20%20June%202015.pdf](http://www.leeds.gov.uk/docs/84%20%20Workforce%20Development%20%20June%202015.pdf)

Focus group, 7 March 2016

Oral evidence session, 3 February 2016.

Submission 146 ? Adult with experience of care

Royal Borough of Kensington & Chelsea website, viewed 7 May 2016:  
[www.rbkc.gov.uk/subsites/kccentral/yourvoice/incare/impactpeermentoring.aspx](http://www.rbkc.gov.uk/subsites/kccentral/yourvoice/incare/impactpeermentoring.aspx)

Care Leavers Association website, viewed 7 May 2016: [www.careleavers.com](http://www.careleavers.com)

Submission 52 ? Independent social worker

Submission 71 ? Foster carer

Submission 127 ? Ofsted

In 2014 there was a difference of 40.1 percentage points between the rates of looked after looked after children achieving five or more GCSEs and equivalents graded A\*C including mathematics. This data cannot be directly compared with earlier years due to methodology (Department for Education, Statistical First Release SFR49/2014)

Sebba, J. et al (2015) The Educational Progress of Looked After Children in England: Linking Educational Data, Oxford: University of Oxford, University of Bristol

Submission 6 ? Retired deputy head of LAC education service

Submission 20 ? Carol Kellas, retired magistrate and school governor

Submission 78 ? LACES team manager

Submission 86 – Association of Child Psychotherapists

Submission 100 ? Adoptive parent and teaching assistant

See Coopers Edge Nurture Room and the Nurture Group Network

Submission 17 ? Education support worker

Submission 108 ? Stephen Pearce, Powys Youth Justice Service

Submission 58 ? Adoptive mother and deputy head teacher

Submission 65 ? Jackie Hamilton JP

Submission 31 – SpringBoard Bursary Foundation [www.springboardbursary.org.uk](http://www.springboardbursary.org.uk) see NFER Interim Evaluation Report at: [www.nfer.ac.uk/publications/SBBF01/SBBF01\\_home.cfm](http://www.nfer.ac.uk/publications/SBBF01/SBBF01_home.cfm)

Submission 55 ? Former head teacher

Submission 27 ? Adult with experience of care

Submission 72 ? Independent social worker and psychotherapist

Submission 78 ? LACES team manager

Submission 79 ? Leaving Care personal adviser

Submission 72 ? Independent social worker and psychotherapist

Submission 93 – PET?Xi Training

Submission 42 – Core Assets Transformation and Rehabilitation

Department for Education (2015) Children looked after in England (including adoption and year ending 31 March 2015: additional tables, London: Department for Education. These figures based on the Strengths and Difficulties Questionnaire.

Redmond, A. (2015) Children in Custody 2014?15: An Analysis of 12?18 year olds perception of experience in secure training centres and young offender institutions, London: HM Inspectorate of Prisons

Luke, N. et al (2014) What works in preventing and treating poor mental health in looked after children, London: NSPCC

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Multi-systemic therapy is an intensive family and community based intervention for children and young people aged 11-17, where young people are at risk of out of home placement in either care or family and families have not engaged with other services. There are now over 35 specialist MST teams working in England, Scotland and Northern Ireland ([www.mstuk.org](http://www.mstuk.org)).

Submission 86 – Association of Child Psychotherapists

Submission 1 ? Foster carer

Submission 33 ? Foster carer

Submission 72 ? Independent social worker and psychotherapist

Submission 79 ? Leaving Care personal adviser

Submission 6 ? Retired deputy head of LAC education service

Submission 30 ? Manager, secure children's home; see also Submission 90 – The Fostering Network

[http://www.sabp.nhs.uk/services/mental?health/young?people/camhs?children?in?care?1](http://www.sabp.nhs.uk/services/mental%20health/young%20people/camhs%20children%20in%20care?1)

Submission 73 ? Mary Lowles JP, former social worker

Submission 49 ? social worker

Submission 85 ? retired psychiatric nurse with experience of care

Submission 23 ? social work professional

Submission 72 ? independent social worker and psychotherapist

House of Commons Education Committee (2016) Mental health and well-being of looked-after children, London: TSO

The Restorative Justice Council explains: In any setting involving children and young people, restorative approaches teach an understanding of others' feelings and the ability to communicate successfully. They enable young people to think for themselves about how to respond to challenging situations. And they enable young people to build trust and develop more mature responses to a difficult situation... (Submission 139)

The YJB does not specifically hold or publish information on the number of looked after children in custody. However, the Placement Information Form, which is completed by the youth offending team prior to the young person entering custody, includes the question, "Is the young person looked after by the Local Authority?" This is completed by the youth offending team based on the information available at the time. The YJB kindly shared this data with the review based on one snapshot day (31/12/15). This data may be subject to variability and seasonality and therefore may not be representative of a full year, and should be treated as indicative only. While this data includes those who were looked after before entering custody, it also includes young people who are looked after only as a consequence of being a LASPOA (so they may not have been looked after before entering custody).

Youth Justice Board for England and Wales and Ministry of Justice (2016) Youth justice statistics 2014/15 England and Wales, London: MoJ/YJB

The data also showed that 51% of girls surveyed reported experience of local authority care compared with 53% of boys; and 58% of unsentenced children reported experience of local authority care compared with 51% of sentenced children. It is likely that some of the unsentenced children were looked after solely because of their remand status.

Ofsted (2015) Children looked after placements by English local authorities, London: Ofsted

Submission 221 ? Imkaan

Submission 80 ? Adult with experience of care

Submission 72 ? Independent social worker and psychotherapist

Submission 221 ? Imkaan

Submission 77 ? Bernadette MacDonald?Raggett, RSN

Submission 206 – Black Training and Enterprise Group

Submission 86 – Association of Child Psychotherapists

Submission 66 ? Former adolescent care worker

Submission 221 ? Imkaan

Submission 77 ? Bernadette MacDonald?Raggett, RSN

Submission 221 ? Imkaan

[www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP\\_CP\\_?Children?in?custody?2014?15?FINAL?web?AW.pdf](http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/12/HMIP_CP_?Children%20in%20custody%202014%2015%20FINAL%20web%20AW.pdf) The proportion of boys who said they were from

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minority ethnic group almost doubled in the same period, from 23% to 42%.

[www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP\\_CP\\_Children?in?custody?2014?15?FINAL?web?AW.pdf](http://www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP_CP_Children?in?custody?2014?15?FINAL?web?AW.pdf) In the same period, the proportion of children identified as being black or from another minority ethnic background reduced from 45% to 30%.

[www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP\\_CP\\_Children?in?custody?2014?15?FINAL?web?AW.pdf](http://www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP_CP_Children?in?custody?2014?15?FINAL?web?AW.pdf)

Redmond, A. (2015)

[www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP\\_CP\\_Children?in?custody?2014?15?FINAL?web?AW.pdf](http://www.justiceinspectorates.gov.uk/hmiprisons/wp?content/uploads/sites/4/2015/12/HMIP_CP_Children?in?custody?2014?15?FINAL?web?AW.pdf)

Submission 221 – Imkaan; Submission 212 – Muslim Youth Helpline

Submission 221 ? Imkaan

Redmond, A. (2015)

Submission 134 – Agenda; young women s focus group, 7 March 2016

Young women s focus group, 7 March 2016

Submission 134 – Agenda; young women s focus group, 7 March 2016: I think black girls get a better education than white girls.

Department for Education (2016) Statistical First Release 11/2016, London: DfE

Ibid and Department for Education (2015) Special educational needs in England: January 2015. London: DfE, Table A, Additional Tables

Submission 181 ? Kelly Mendonca, social worker

Submission 47 ? Consultant child and adolescent psychiatrist

Submission 83 ? TACT

Submission 7 ? Registered care home manager

Submission 54 ? Speech and language therapist

Williams, H. (2012) Repairing shattered lives: Brain injury and its implications for criminal justice. London: Barrow Cadbury Trust

Submission 41 – International social service network; see also Children and Families Across the World website [www.cfab.org.uk](http://www.cfab.org.uk)

Submission 63 ? Retired magistrate

Submission 212 ? Phillipa Southwell, solicitor

Submission 209 ? ECPAT UK

National Police Chiefs Council (2015) UK national problem: Commercial cannabis cultivation and distribution. London: NPCC

Kohli, R. et al (2015) Evaluation of Independent Child Trafficking Advocates Trial: Final Research Report 86, London: Home Office

[www.gov.uk/government/news/review-of-racial-bias-and-bame-representation-in-criminal-justice-system-announced](http://www.gov.uk/government/news/review-of-racial-bias-and-bame-representation-in-criminal-justice-system-announced)

See the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Submission 27 ? Adult with experience of care

Submission 51 ? Retired youth magistrate

See for example Submission 204 (Croydon Council), Submission 133 (youth justice service), Submission 98 (Dr Claire Fitzpatrick, Lancaster University), Submission 140 (National Association for Children and Young People) and Submission 166 (Serco).

Submission 172 ? Catch 22

Submission 129 ? British Association of Social Workers; see BASW submission to the parliamentary inquiry on the youth justice system: [www.basw.co.uk/resource/@id=2697](http://www.basw.co.uk/resource/@id=2697)

Submission 114 – Centre for Mental Health

Submission 184 ? Ryan Wise, social worker; Submission 66 ? Former adolescent care worker; Submission 78 ? LACES team manager

Submission 98 ? Dr Claire Fitzpatrick, Lancaster University

Submission 139 – Restorative Justice Council

Community Care – Restorative justice cuts criminalisation and police intervention among 10-17 year olds. Cited in Submission 139 – Restorative Justice Council

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Littlechild, B. et al (2010) The introduction of restorative justice approaches in young residential units: A critical evaluation, London: University of Hertfordshire; cited in Restorative Justice Council

Submission 198 – Essex Youth Offending Service

Submission 52 ? Independent social worker

Submission 129 ? British Association of Social Workers (England)

Children and young people s consultation group meeting, 14 December 2015

Submission 205 – Sunderland Youth Offending Service

Submission 162 ? Inquest

Submission 184 ? Ryan Wise, social worker

Submission 172 – Catch 22

Submission 42 – Core Assets Transformation and Rehabilitation

Submission 115 – Surrey County Council and Surrey Police

HMIC (2015) The welfare of vulnerable people in police custody, London: HMIC. Cited in Submission 164 ? Inquest

Submission 185 – Youth Justice Board for England and Wales

Submission 166 ? Serco

Submission 185 Youth Justice Board for England and Wales

Submission 73 ? Mary Lowles JP, former social worker

Submission 65 ? Jackie Hamilton JP

Submission 98 ? Dr Claire Fitzpatrick, Lancaster University

Submission 58 ? Adoptive mother and deputy head teacher

Submission 129 – British Association of Social Workers (England); Submission 162 ? Inquest

Submission 133 – Youth justice service

National Police Chiefs Council (2015) National Strategy for the Policing of Children and Young People, London: NPCC

National Children s Bureau (2015) Building Trust: One Year On. Progress in improving relationships between children and the Police. Follow on report of the inquiry held by the All Party Parliamentary Group for Children 2013?14, London: NCB. This report sets out key actions for government and policing bodies to help ensure that the momentum for change and improvement to policing practices seen since the inquiry by the APPG for children took place continues.’

Submission 71 ? Foster carer

Howard League for Penal Reform (2016) Criminal care, London: Howard League for Penal Reform

Submission 86 – Association of Child Psychotherapists

Submission 162 ? Inquest

Submission 33 ? Foster carer

Submission 205 – Sunderland Youth Offending Service

Ministry of Justice (2013) Youth Out?of?Court Disposals. Guide for Police and Youth Offending Services, London: MoJ

Ministry of Justice (2013) Youth Out?of?Court Disposals. Guide for Police and Youth Offending Services, London: MoJ

Submission 115 ? Surrey County Council and Surrey Police

Submission 194 – Blaenau Gwent and Caerphilly Youth Offending Service

Submission 194 – Blaenau Gwent and Caerphilly Youth Offending Service

The YJB reports that, compared to the year ending March 2010, in 2014/15 there were 67% fewer young people who were first time entrants to the youth justice system, 65% fewer young people received a youth caution or court disposal and 57% fewer young people (under 18) in custody in youth secure estate. (YJB and Ministry of Justice (2016) Youth justice statistics 2014?15, London: YJB and MoJ).

The Department for Education reports that the proportion of 10?17 year old looked after children who had been continuously looked after for 12 months as at 31 March 2015 was five per cent. In both 2013 and 2014 the proportion was six per cent, compared to one per cent in 2012.

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17 year old children in the general population in England. Comparative figures for the general population in 2015 are not yet available

Submission 174 – Magistrates Association  
Home Office Counting Rules for Recording Crime, issued January 2016  
Ministry of Justice (2016) Review of the Youth Justice System: An interim report of emergency  
London: MoJ

Submission 174 – Magistrates Association  
Ministry of Justice (2016) Review of the Youth Justice System: An interim report of emergency  
London: MoJ

Submission 166 ? Serco  
Department of Health (2002) National Standards for the Provision of Children's Advocacy Services  
London: DH

Submission 46 ? Police officer

Submission 88 ? Retired appropriate adult with experience of care  
[www.westyorkshire.pcc.gov.uk/media/86778/looked\\_after\\_children\\_10\\_point\\_plan\\_.pdf](http://www.westyorkshire.pcc.gov.uk/media/86778/looked_after_children_10_point_plan_.pdf)  
Crown Prosecution Service website: [http://www.cps.gov.uk/legal/v\\_to\\_z/youth\\_offenders/#a2](http://www.cps.gov.uk/legal/v_to_z/youth_offenders/#a2)  
HMCPSP (2013) CPS Youth Offender Casework Thematic Follow-up, London: HMCPSP

Submission 140 ? National Association for Youth Justice  
Young people's focus group, Big House Theatre Company, 23 February 2016

Submission 65 ? Jackie Hamilton JP

Submission 204 ? Croydon Council

Submission 205 ? Sunderland Youth Offending Service

Submission 174 ? Magistrates Association

Submission 174 – Magistrates Association

Submission 86 – Association of Child Psychotherapists

Submission 99 ? Sarah Curtis, former youth magistrate

Submission 200 ? Magistrate

Submission 194 ? Blaenau Gwent and Caerphilly Youth Offending Service

Submission 197 ? Nottingham Youth Offending Service

Submission 63 ? Retired magistrate

Submission 65 ? Jackie Hamilton JP

Submission 28 ? Sibling of care leaver

Submission 30 ? Manager, secure children's home

Submission 140 – National Association for Youth Justice

Fitzpatrick, C. (2014) Examining Clear Approach : An intervention for care leavers on an alternative to custody order, Lancaster: Lancaster University, Manchester Metropolitan University

Submission 98 ? Dr Claire Fitzpatrick, Lancaster University

Submission 162 ? Inquest

Leeds Safeguarding Children Board Serious Case Review in respect of Ryan Clark (2015); cited in  
Submission 162 ? Inquest

Submission 162 ? Inquest

Inquest (2015) Stolen lives and missed opportunities: the deaths of young adults and children in prison, London: Inquest; Prison Reform Trust and Inquest (2012) Fatally flawed: Has the system learned lessons from the deaths of children and young people in prison? London, Prison Reform Trust and Inquest

BBC Panorama: Teenage prison abuse exposed, first broadcast on 11 January 2016:  
<http://www.bbc.co.uk/programmes/b06ymzly>

The Secretary of State for Justice appointed an improvement board for Medway secure training, which reported publicly on 12 May 2016: <https://www.gov.uk/government/publications/medway-secure-training-improvement?board=report&and=moj?response=to%20its%20recommendations>

See HMIP (2016) Report on an announced inspection of HMPYOI Glen Parva, London: HMIP

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Ofsted (2014) Inspection of Medway Secure Training Centre, September 2014, London: Ofsted

Ministry of Justice (9 February 2016) Review of the youth justice system: an interim report on emerging findings, London: Ministry of Justice:  
<https://www.gov.uk/government/publications/review-of-the-youth-justice-system>

Submission 114 – Centre for Mental Health

See also HMIP (2015) Behaviour management and restraint of children in custody, A review of early implementation of MMAP by HM Inspectorate of Prisons, London: HMIP.

Submission 181 ? Kelly Mendonca, social worker

Redmond, A. (2015) Children in Custody 2014-15: An Analysis of 12-18-year-olds perceptions of their experience in secure training centres and young offender institutions, London: HMIP

Submission 23 ? Social work professional

Submission 85 ? Retired psychiatric nurse with experience of care

Submission 30 ? Manager, secure children's home

Submission 52 ? Independent social worker

Meeting of review panel members with YOI-placed social workers, 3 February 2016

Submission 166 ? Serco

Submission 87 – Everton Football Club in the Community

Submission 78 ? LACES team manager

Submission 173 ? Welsh Local Government Association

Submission 129 ? BASW (England)

Submission 198 ? Essex Youth Offending Service

Submission 179 ? Family Rights Group

Submission 198 ? Essex Youth Offending Service

Submission 194 ? Blaenau Gwent and Caerphilly Youth Offending Service

HMIP (2015) Joint thematic inspection of resettlement services to children by youth offending teams and partner agencies, London: HMIP

Submission 202 – Professor Mike Stein, University of York

England ? Department for Education (2015) Statistical First Release SFR 34/2015, London: DfE. This has been a slight change in methodology this year, whereby a child going missing from his or her agreed placement is no longer counted as a separate placement in 2015. Whilst this means that the figures for 2015 are not strictly comparable with earlier years, the percentages with 1, 2 and 3 placements have changed relatively little compared with previous years, suggesting the impact of the methodology change is minimal. Wales ? Welsh Government (2015) StatsWales, Children Looked After in Wales, Cardiff: Welsh Government

Department for Education (2016) Statistical First Release 11/2016. Changes to the way that percentages are calculated means comparisons with earlier years are not possible.

Department for Education (2015) Statistical First Release 34/2015, London: DfE

Office for National Statistics (2014) Young adults living with their parents, London: ONS

HM Government (2014) Care leaver strategy. One year on progress update, London: HM Government

Submission 63 ? Retired magistrate

Submission 71 ? Foster carer

Submission 24 ? Adult with experience of care

Submission 42 – Core Assets Transformation and Rehabilitation

Submission 74 ? Former children's social worker with experience of care

Submission 35 ? Independent consultant

Submission 207 ? The Big House Theatre Company

Submission 2 ? SEN teacher

<http://www.1625ip.co.uk/What-We-Do/Future-4-Me-Project.aspx>

Submission 190 ? Future 4 Me

[www.sharedlivessw.org.uk](http://www.sharedlivessw.org.uk)

Submission 15 ? Foster carer



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Submission 16 ? Adult with experience of care

Submission 69 ? Dr Peter McParlin

Ibid

Buttle UK website, viewed 25 January 2016: <http://www.buttleuk.org/areas?of?focus/qualityfor?care?leavers#sthash.pIeQFa9L.dpuf>

Submission 69 ? Dr Peter McParlin

Submission 89 ? First Campus ? University of South Wales

Submission 23 ? Social work professional

Submission 79 ? Leaving Care personal adviser

Submission 96 ? Former social worker

Ministry of Justice (2012) Prisoners childhood and family backgrounds, London: MOJ

National Offender Management Service (2013) Practice Guidance: Working with Care Leavers in custody and the community, to reduce reoffending and promote effective transition to a London: NOMS

Submission 157 ? National Offender Management Service

OASys is the IT-based Offender Assessment System, developed jointly by the prison and probation services, to assess offenders needs and risks (HM Prison Service ? Prison Service Order 2007 Offender Assessment and Sentence Management)

P?Nomis is the operational database used in prisons for the management of offenders: <https://data.gov.uk/dataset/prison?national?offender?management?information?system?p?nomisand?inmate?information?system?ii>

Submission 98 ? Dr Claire Fitzpatrick, Lancaster University

Submission 80 ? Adult with experience of care

Submission 88 ? Retired appropriate adult with experience of care

Statutory guidance for local authorities in England on looked after children and youth justice recognises the increased likelihood of looked after children becoming criminalised. The guidance states that local authorities should to take a strategic approach to encouraging positive behaviour amongst looked after children who may be at risk of offending and to take measures to divert them from involvement with the criminal justice system. It recommends that children s homes should have protocols with local police forces to prevent children in their care from being needlessly criminalised . (Department for Education (2014) Looked after children and youth justice. Regulations of the Care Planning, Placement and Case Review (England) Regulations 2010 to looked after children in contact with youth justice services, London: DfE) These principles are reflected in the Children s Homes Regulations including the Quality Standards (Para 8.5, Department for Education (2015) Guide to the Children s Homes Regulations including the Quality Standards, London: DfE)

Submission 115 – Surrey County Council and Surrey Police

Mackie, A. et al. (2014) Youth Restorative Evaluation Summary Report GtD Social Impact Analysis

Submission 194 ? Blaenau Gwent and Caerphilly youth offending service

Submission 176 ? Leeds City Council

Multi-systemic therapy (MST) is an intensive community-based therapy whose goal is to break the cycle of anti-social behaviours by keeping young people safely at home, in school, and out of trouble. MST works to increase the skills and resources of the parents and carers to manage their young person s behaviours more effectively. MST therapists go to where the young person lives and work in school. MST therapists work intensively with families, meeting with the family and other professionals in the young person s life several times a week. Visiting the family in their home and community increases the likelihood that they will successfully engage in MST because appointments are arranged at convenient times and locations making it easier for them to attend. Therapists receive a high level of training and supervision and use approaches, such as behavioural therapy, cognitive behavioural therapy and structured family therapy to work with young people and their families. The Multi-systemic Integrated Transitions (MST FIT) model uses standard MST principles with additional components to address the specific issues and contexts of young people returning home. Goals of the FIT programme include strengthening family relationships, improving young people s mental health, supporting their social development and lowering the risk of offending where this is part of the presenting problem. Also, connecting the family with appropriate community supports and supporting the young person in reintegrating into school and to develop positive peer relationships. Source: MST UK website, viewed on 30 April 2016: [www.mstuk.org](http://www.mstuk.org)

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Submission 14 ? Leicestershire County Council

Submission 14 ? Knight, V. et al (2011) Evaluation of the Restorative Approaches Project : Residential Homes across Leicestershire: Final Report 2011, Leicester: De Montfort University  
Chief Inspector Clare Riley, Staffordshire Police, oral evidence session, 10 September 2015  
Community Care – Restorative justice cuts criminalisation and police intervention among looked after children. Cited in Submission 139 – Restorative Justice Council

Littlechild, B. et al (2010) The introduction of restorative justice approaches in young people's residential units: A critical evaluation, London: University of Hertfordshire; cited in Submission 139 – Restorative Justice Council

Submission 196 ? Waltham Forest Youth Justice/Early Help  
Information provided by Manchester youth offending service  
Submission 185 – Youth Justice Board for England and Wales

Statistics throughout this section, unless otherwise stated, are from the following sources:  
Department for Education (2015) Statistical First Release SFR 34/2015, London: DfE; Wales  
Welsh Government (2015) StatsWales, Children Looked After, Cardiff: Welsh Government

England ? Department for Education (2015) Statistical First Release SFR 34/2015, London: DfE  
There has been a slight change in methodology this year, whereby a child going missing from his or her agreed placement is no longer counted as a separate placement in 2015. Whilst this means that the figures for 2015 are not strictly comparable with earlier years, the percentages with 1, 2 and 3 placements have changed relatively little compared with previous years, suggesting the impact of the methodology change is minimal. Wales ? Welsh Government (2015) StatsWales, Children Looked After, Cardiff: Welsh Government

Department for Education (2016) Statistical First Release 11/2016. Changes to the way these figures are calculated means comparisons with earlier years are not possible.

Department for Education (2016) Statistical First Release 11/2016, London: DfE

Ibid and Department for Education (2015) Special educational needs in England: January 2015, London: DfE, Table A, Additional Tables

Department for Education (2015) Children looked after in England (including adoption and care leavers), year ending 31 March 2015: additional tables, London: Department for Education. The figures are based on the Strengths and Difficulties Questionnaire.

Welsh Government (2015) StatsWales, Children in Need/Youth Offending, Cardiff: Welsh Government

Department for Education (2015) Statistical First Release 34/2015, London: DfE. The rate of youth offending for looked after children aged 10-17 on 31 March 2015 was 5%. Comparison figures for children for March 2015 will not be available until summer 2016.

YJB Gateway to the Youth Justice System Ch. 1, Table 1.1, Flows through the Youth Justice System ending March 2015.

Redmond, A. (2015) Children in Custody 2014-15: An Analysis of 12-18 year olds' perceptions of their experience in secure training centres and young offender institutions, London: HM Inspectorate of Prisons

Department for Education (2015) Statistical First Release SFR 34/2015, London: DfE

Section 104(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 provides that a child who is remanded to youth detention accommodation is to be treated as a child who is looked after.

Redmond, A. (2015)

ibid

ibid

The YJB does not specifically hold or publish information on the number of looked after children in custody. However, the Placement Information Form, which is completed by the youth offending team prior to the young person entering custody, includes the question, "Is the young person looked after by the Local Authority?" This is completed by the youth offending team based on the information held at the time. The YJB kindly shared this data with the review based on one snapshot of data (March 2015). This data may be subject to variability and seasonality and therefore may not be representative of the full year, and should be treated as indicative only. While this data includes those who were looked after before entering custody, it also includes young people who are looked after only as a consequence of the Legal Aid Sentencing and Punishment of Offenders Act (s

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may not have been looked after before entering custody).

Youth Justice Board for England and Wales and Ministry of Justice (2016) Youth justice statistics 2014/15 England and Wales, London: MoJ/YJB

The data also showed that 51% of girls surveyed reported experience of local authority care compared with 53% of boys; and 58% of unsentenced children reported experience of local authority care, compared with 51% of sentenced children. It is likely that some of the unsentenced children were looked after solely because of their remand status.

Comptroller and Auditor General's Report, Children in Care, HC 787, Session 2014-15, 27 November 2014

Ibid

Youth Justice Board (2015) Annual Report and Accounts 2014/15, London: Youth Justice Board

Youth Justice Board (2013) Annual Report and Accounts 2012/13, London: Youth Justice Board

Department for Education (2013) Children looked after in England year ending 31 March 2013

London: DfE, StatsWales website, and Office for National Statistics (2013) Population estimates for persons for England and Wales and regions Mid-1971 to Mid-2012, London: ONS

Kennedy, E. (2013) Children and Young People in Custody 2012-13: An analysis of 15-18-year-olds' perceptions of their experiences in young offender institutions, London: HM Inspectorate of Prisons and Youth Justice Board.

These terms of reference were drawn from the statistics referred to above, which were the most recent available at the time of the review's launch. In its findings from 774 surveys conducted with children at every secure training centre and young offender institution which were all conducted between 1 April 2014 and 31 March 2015, HM Inspectorate of Prisons has since reported that almost half the children in STCs (52%) and almost two-fifths of boys in YOIs (38%) told the Inspectorate they had been or were in local authority care. Redmond, A. (2015) Children in Custody 2014-15: An analysis of 12-18-year-olds' perceptions of their experience in secure training centres and young offender institutions, London: HMIP, YJB.



The Prison Reform Trust is an independent UK charity working to create a just, humane and effective penal system. It does this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform.

From 2007 to 2012 the Prison Reform Trust's Out of Trouble programme, generously supported by the Diana, Princess of Wales Memorial Fund, worked with some success to help reduce the numbers of children in custody in England and Wales. As part of that programme, the Prison Reform Trust commissioned research into the views of looked after children on the links between care, offending and custody. In 2015 the charity launched a major review chaired by Lord Laming to investigate the disproportionate numbers of children in care who were in custody and to make recommendations for reform.

This report has been prepared by Katy Swaine Williams, the review's co-ordinator, in consultation with John Drew, secretary to the review, and Juliet Lyon, director of the Prison Reform Trust. The report is accompanied by a literature review which is available from the Prison Reform Trust: ***'Risk, adverse influence and criminalisation: Understanding the over representation of looked after children in the youth justice system'*** by Dr Jo Staines, Hadley Centre for Adoption and Foster Care Studies, School for Policy Studies, University of Bristol.