

Residential Care in England

**Report of Sir Martin Narey's
independent review of children's
residential care**

July 2016

Contents

Acknowledgements	3
Introduction	4
Background note on residential care in England: history, population make-up, and trends	6
1. Obtaining better value for money in the commissioning of residential care	11
2. Fostering, closeness to home, the size of homes, and secure care	21
3. The criminalising of children; staff confidence; setting boundaries for children; and the use of restraint	34
4. Ofsted	47
5. Staff qualifications, pay and recruitment	55
6. Staying Put rather than Staying Close?	62
7. A note on European Social Pedagogy	66
8. Conclusions and the need for system leadership	69
List of Recommendations	71
Annex 1: Children’s residential care review: Independent call for evidence summary	75
Annex 2: Office of the Children’s Commissioner for England: Summary of children and young people’s views of residential care	82
Annex 3: DfE supplementary analysis (2016)	(Available here)

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Shazia Hussain led the DfE team brilliantly. I hope very much indeed that if Ministers accept these recommendations, that she might lead their implementation. Her background is unusual for someone already in a senior position in the Civil Service. She's a non-graduate and experienced care herself. She's hugely sensitive to the issues and is the ideal person to take things forward.

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Introduction

On 28 October 2015 the Prime Minister told the House of Commons that he and the Secretary of State for Education had commissioned me to review residential care for children. The Prime Minister told the House that:

“We need to make sure that our residential care homes are doing the best possible job they can. That is why I can announce that I have asked the former Chief Executive of Barnardo’s, Sir Martin Narey, to conduct an independent review of children’s residential care, reporting to the Education Secretary and myself, so we can take every possible step to make sure these children get the best start in life.”

I issued a call for written evidence to which there were 163 formal responses. I received many more personal emails both from those who’d submitted formal evidence and from others. I discussed my review with substantially more than one hundred individuals, including children in care and care leavers, and visited twenty children’s homes. My deliberations were also informed by a survey of Children’s views conducted by the Office of the Children’s Commissioner.

On 31 March 2015, 8,320 children were in residential care. Of these, 5290 (64%) lived in children’s homes, 180 lived in secure units, 1100 lived in hostels (generally as part of the process of leaving care) and 670 lived in residential schools. Although the terms of reference for this review were broad, I have concentrated on the quality of care for the 5290 living in children’s homes. That is despite the fact that some responses to the call for evidence suggested that all residential special schools, not just those that are registered as children’s homes – and to which my recommendations apply - should be a priority for me. However, it became clear that this sector merits separate and more in-depth consideration than I could achieve in the time available. As the Director of the Council for Disabled Children told me, we know too little about the children in these schools. I have suggested to the Department for Education that they look separately at residential schools, and I’m pleased that they’re minded to do so.

It was also beyond the scope of this review to consider CAMHS and wider issues relating to the mental health of children in residential care. But I very much welcomed the announcement, in April, of a new Expert Group on the mental health of looked-after children, and under the co-leadership of Professor Peter Fonagy, Freud Memorial Professor of Psychoanalysis, University College London, and Alison O’Sullivan, former president of Association of Directors of Children’s Services.

Residential care in England has had a troubled history. As the historical timeline in my introduction outlines, a number of previous government reviews have been commissioned following the appalling abuse of children in residential settings. Both of the Utting Reports and the Warner report were prompted by revelations about abuse. And there have been scandals elsewhere in the UK, including that at the Kincora Home in Belfast - exposed in 1980 - and the abuse of children in North

Wales, which prompted the Waterhouse Report of 2000. More recently the inadequacies of children's homes in Rotherham and Rochdale and their failure to protect children from sexual abuse has been laid bare by the Times journalist Andrew Norfolk. With that sort of history and reputation, some will be surprised at my conclusion that children living in homes in England are treated overwhelmingly well. Indeed, I have been hugely impressed with a great deal of what I've seen. Of course I cannot rule out future failure, including abuse, in individual homes. But I believe we can be generally and genuinely confident about the quality of care in children's homes.

Children's homes are often viewed as an anachronism, to be used only as a last resort. That is significantly to underestimate the contribution they can make, the stability they can deliver, and the high quality care they can extend to children who have had terribly fractured lives. I found the children to whom I spoke to be overwhelmingly positive about life in a children's home. Many have a preference for living in a home rather than being fostered. That was the view of the Children's Commissioner, confirmed by the survey she commissioned to support this review. As one articulate care leaver, Jack Smith, explained to me in his own analysis of care:

"Many believe a family environment is a more suitable placement for a young person to grow up in. That may be the case for lots of young people and children in care, but not for all. Unfortunately there seems to be a big push for foster care as residential care isn't viewed as an ideal option, more of a last resort if they can't find another suitable placement. That attitude needs to change, residential care homes work for a number of young people for reasons that are probably far too complicated than I can ever fully explain. But I do know that for me and a number of other young people, care homes were the BEST option, not the last resort option and they did some amazing work with us during our time there."

Children's homes can and should be better. I make 34 recommendations which, I believe, will deliver significant improvement in the care of the challenging, troubled, harmed, often damaged, yet frequently inspiring children who live in them. But the overwhelming majority of homes are already good or better and I have witnessed the care of children in some of which we, as a society, can be proud. Those who choose a career in residential care deserve our thanks and our admiration, and we should no longer see the homes in which they work as institutions to be used only as a last resort.

Sir Martin Narey

June 2016

Background note on residential care in England: history, population make-up, and trends

The term *Residential Care* can be used to refer to placements in children's homes, residential schools, secure units and unregulated homes and hostels.

- The use of residential care in England peaked during the mid-1970s, when local authorities accommodated about 40,000 children. That accounted for approximately 40% of all placements for looked after children. Since then there has been a sharp decline in both the size of the care population and the proportion in residential care.
- Today, residential care accounts for 12% of all care placements in England. On 31 March 2015, 8,320 children were in residential care from a care population of 69,540. Of these, 5,290 (64%) lived in children's homes, 180 lived in secure units, 1,100 lived in hostels (generally as part of the process of leaving care), 1,080 lived in other residential settings (including care by the NHS, mother and baby units and custody) and 670 lived in residential schools¹.
- The annual cost of caring for the 8,300 children is about one billion pounds. The cost of the 5,300 children in children's homes (the main focus of this review) is about £750m a year.²
- The children living in children's homes today tend to be older and significantly more challenging than earlier populations (just over three-quarters are between 14 and 17 years old (average age 14.6³). The majority of the population are male (62%).
- A slightly higher percentage of children in children's homes (80%) are White compared to 75% of all looked after children in England.⁴
- 53% of children living in children's homes have a statement of special educational needs or an Educational, Health and Care plan, and a further 28% have identified special educational needs without statements or EHC plans. This compares to 20% and 34% for all looked after children respectively.⁵
- In 2013, about 62% had clinically significant mental health difficulties; and, 74% were reported to have been violent or aggressive in the past six months⁶.
- In 2015, 15% of children in children's homes received a conviction or had been subject to a final warning or reprimand during the year, compared to 5% for the

¹ DfE Data Annex

² Section 251, financial data collection, S251 outturn

³ DfE Data Annex

⁴ Ibid.

⁵ Ibid.

⁶ Berridge quoted in Boddy (2013) Understanding permanence for looked after children: a review of research for the care inquiry

care population as a whole⁷.

- Approximately 55% of children in homes are placed on a 'voluntary' basis⁸. (most of whom enter care for the first time in adolescence). The remainder are placed as a result of care proceedings.⁹
- There may be more than one reason for a child being placed in a home, but the primary reason is their abuse or neglect (45%)¹⁰ followed by family dysfunction.
- For 25% of children, the children's home is their first care placement. But almost a third of those in children's homes have had 6 or more previous placements¹¹.
- Children in children's homes are more likely to be living away from their local communities than those in foster care (37% are placed more than 20 miles from home and outside their local authority)¹².
- 35% of placements in a home last less than a month; 47% last between a month and a year; 10% last between one and two years; and just 8% of placements last for more than two years¹³. More than half of placements last less than 3 months, reflecting, in part, the use of residential care for children on the edge of care, many of whom will either return home, become fostered, or move on to a more permanent residential placement.
- The use of children's homes as a proportion of all children in care ranges from 40% in Camden to 0% in Rutland and in the City of London.¹⁴

A brief history of care, changes to the size of homes and their management

- Originally, accommodation provided to orphans and the destitute under Elizabethan poor law was overseen by parish authorities, which enabled them to provide assistance and to board out impoverished children. Later, the 1834 Poor Law Amendment Act introduced poor law unions under the control of Boards of Guardians, who held responsibilities for public assistance including the oversight of workhouses.
- During the second half of the 19th century familiar national charities emerged: Dr Barnardo's Homes (founded in 1866); the National Children's Home (now Action for Children, founded 1869); and, The Waifs and Strays Society (1881)

⁷ DfE Data Annex

⁸ Section 20, Children Act 1989

⁹ DfE Data Annex

¹⁰ Ibid.

¹¹ Children's Home Data Pack (DfE – 2014)

¹² DfE Data Annex

¹³ Children's Home Data Pack (DfE – 2014)

¹⁴ DfE Data Annex

were all established during this period. These were to become the first national providers of children's homes.

- In the early 20th century, the newly formed Ministry of Health (1919) took responsibility for poor law administration from the Home Office. The Local Government Act 1929 transferred these responsibilities to Public Assistance Committees. Children put in care by these committees tended to enter care on a voluntary basis¹⁵.
- The Home Office retained responsibility for industrial schools and reformatories (originally intended to tackle offending and delinquency, but in practice also providing homes to neglected children). The Children and Young Persons Act 1933 created Education Committees to oversee the industrial schools and reformatories, which became known as approved schools.
- Reporting in 1948, the Curtis Committee laid the foundation for *The Children Act 1948*. This landmark Act brought together the 'welfare' responsibilities of Public Assistance Committees (Ministry of Health) and Education Committees (Home Office) to establish local children's officers, boarding out officers, and children's committees¹⁶. Many local areas formed children's departments as a result, all under the ultimate control of the Home Office.
- The Report expressed specific concern about larger institutions. Children were found to be living in what were largely considered unstimulating and austere environments¹⁷. Twelve bed homes were recommended as the largest acceptable. From that time the size of children's homes began to fall as larger, mostly voluntary sector, orphanages began to close.
- Even so, as recently as 1964, two thirds of homes housed twelve children or more.¹⁸ The shift to small children's homes then accelerated during the late eighties. Today the average children's home has beds for four children¹⁹.
- Sir William Utting was commissioned in 1991²⁰ to review residential care in the light of the scandal over *Pindown*.²¹ He urged that residential care should be seen as a positive and valuable placement decision for children's needs and made recommendations about how that might be achieved

¹⁵ <http://www.thetcj.org/child-care-history-policy/the-monckton-report-by-sir-william-monckton>

¹⁶ Bullock and Parker (2014) *A review of services for children in care in the UK since 1945 and a comparison with the situation in Jersey*, page 19

¹⁷ Care of Children Committee (1946) *Report of the Care of Children Committee* (Chairman: Myra Curtis) Cmd. 6922 London: His Majesty's Stationery Office

¹⁸ Bullock and Parker (2014) *A review of services for children in care in the UK since 1945 and a comparison with the situation in Jersey*, page 29

¹⁹ Ofsted data on placements of looked after children, year ending 31 March 2015 (published 10 May)

²⁰ Sir William Utting's review of residential care services for children 1991

²¹ Pindown was a method of illegal punishment used in children's homes in Staffordshire in the 1980s. It involved locking children in rooms called pindown rooms, sometimes used for periods of weeks or months. An Inquiry into the practice chaired by Allan Levy QC found the practice to be unethical, unprofessional and unlawful.

- The 1992 Warner Inquiry²² was established following the trial and conviction of Frank Beck at Leicester Crown Court for sexual and other offences against young people in a local authority children's home. The main findings included that there was an increasing number of difficult children to care for in homes, there was evidence of low esteem of homes and staff with consequences on staff morale and subsequent recruitment. There was also a lack of sustained attention to children's residential care by employers and senior management in Social Services Departments. There were also non-existent or inadequate arrangements for staff appraisal and supervision in many places and other poor management practices, with a need for more systematic and rigorous approach to the recruitment, selection and appointment of staff.
- A second report by Sir William Utting was published in 1997. The then Secretary of State for Health, Frank Dobson, told the House of Commons²³ that the report presented "a woeful tale of failure at all levels to provide a secure and decent childhood for some of the most vulnerable children" Although the review team found evidence of good work done by many children's homes and despite adverse circumstances, too many children had a damaging succession of placements, some were at risk in small unregistered homes and more than a third of children were not receiving an education. Staffing was identified as a chronic problem.

Children's homes today

- There were 1,795 active children's homes as at 31 March 2015. This was 41 more than at the same point in 2014.²⁴
- Today the voluntary sector provides relatively little residential care; only about 5% of children are in homes provided by the voluntary sector. 28% of children live in local authority provision, whilst the majority of children, 67%, now live in private provision²⁵.
- In 2015, children's homes were disproportionately located in certain areas of the UK. London has only 6% of children's homes whilst the North West has 24%.²⁶
- Eleven private companies own just under a quarter of all homes²⁷ although the bulk of private provision is made up of providers owning just one or two homes (71%).

²² Department of Health (1992) Choosing with care: report of the committee of inquiry into selection, development and management of staff in children's homes.

²³ House of Commons, 19 November 1997

²⁴ Ofsted data on placements of looked after children, year ending 31 March 2015 (published 10 May)

²⁵ DfE Data Annex

²⁶ DfE (2015) - Children's social care data in England

²⁷ Children's Home Data Pack (DfE – 2014)

The cost of care and staff pay

- The average weekly cost of a place in a children's home is approximately £3,000, with little difference in cost between local authority, voluntary sector and private sector provision²⁸.
- Local Authority run homes have a higher number of staff on average (15) compared to privately run homes (11) irrespective of the size of the home. Staff in privately run homes tend to work longer hours on average (38.6 hours a week) compared to local authority run homes (33.9 hours a week). Privately run homes currently pay significantly less per hour than local authority homes, with an average of £9.39 per hour against £13.28 in local authority run homes. The voluntary sector figure is £10.15.²⁹

Outcomes

- It is very difficult to link a period in a children's home to educational or other outcomes when most children spend only brief periods in them (more than half for less than 3 months and 83% for less than a year). Various pronouncements, including those that seek to link residential care to poor academic outcomes, or to spending future time in custody, generally fall into the trap of confusing correlation with causation. The most dependable guide to the quality of care flows from Ofsted inspection results.
- Indeed there is some evidence to suggest that children who spend a longer time in residential provision may have better outcomes than those who have only spent a short time in such provision. This suggests that stability of placement may be a factor in achieving good outcomes for looked- after children.³⁰
- DfE data in 2014 showed that stability (i.e. longer placements in children's homes) was strongly associated with a reduction in levels of criminal activity and substance misuse. Separate research by Hicks et al in 2009 also looked at 45 homes and concluded that "increased lengths of stay in homes were found to be significantly associated with both lower total costs of care packages per resident per weeks and better outcomes.
- At the end of March 2015, almost three quarters of children were living in homes classed by Ofsted as good or better.³¹

²⁸ *Ibid.*

²⁹ DfE (2015) – A census of the children's homes workforce

³⁰ DfE (2014) – Children's Homes data pack

³¹ Ofsted data on placements of looked after children, year ending 31 March 2015 (published 10 May)

1. Obtaining better value for money in the commissioning of residential care

A report, commissioned by the Department for Education and published in June of last year by Oxford Brookes University³² provides an excellent summary of the complexities of commissioning, the range of prices paid by local authorities for placements, and – certainly as measured by value for money - the absence of much in the way of successful commissioning. The researchers discovered significant differences in the price local authorities paid for similar provision. Five local authorities paid more than £3,000 a week for 80% of placements while fifteen others had fewer than 20% of their placements costing more than that sum. Weekly prices ranged from £1,900 to £9,325 with a mean of £3,289.

I was often told, by those with experience of both, that commissioning in children's services has not generally matured as much as in adult social care and that knowledge and intelligence about the needs of individual children – dependent on good quality care planning - is often not aggregated to inform commissioning. Certainly, too much of what I saw and heard was really about buying places in children's homes, not about commissioning them.

Providers often complained to me that commissioners, with little knowledge of children's issues, dominated decision making about the placing of individual children. I found little evidence to substantiate that and, indeed, saw lots to suggest that social work professionals – if not always the children's social worker – were properly influential in placement choice. That should continue, but it should be accompanied by improved commissioning, to ensure the availability of the right homes in the right locations, and, crucially, to drive down costs. I was startled by the frequent failure of local authorities to save money by obtaining discounts related to occupancy. I am not, by any means, the first person to make this observation. The National Audit Office told me that in their recent review³³ they met very few individuals in children's services commissioning whom, they believed, had a proper grip on cost effectiveness.

Regional Cooperation

It is difficult for individual local authorities to commission residential care effectively, given the relatively small numbers of children needing it in each authority area. Most local authorities in England (all but 22) cooperate with adjacent authorities in about fourteen regional residential care consortia. Another recent report, again from Oxford Brookes³⁴ identified the following range of contracts managed by consortia:

³² Financial stability, cost charge and value for money in the children's care residential market. Institute of Public Care, Oxford Brookes University

³³ National Audit Office: Children in Care, 2014

³⁴ Oxford Brookes University: The Efficacy and Sustainability of Consortia Commissioning of Looked After Children's Services, July 2015

- local authorities coming together simply to agree an approved list of providers. Individual authorities then independently spot purchase places;
- framework agreements (a common specification and contract with providers for a specified service at agreed prices);
- dynamic purchasing systems where providers can join or leave the contract, which otherwise operate much like a framework agreement;
- block contracts where local authorities agree to purchase a specified number of places from one or more providers; and
- cost and volume contracts, where no specific volume of purchases of placements is guaranteed, but where there is agreement that, as spend with a particular provider increases, prices will be reduced.

Oxford Brookes found that nearly all the consortia relied primarily on framework agreements. Four had dynamic purchasing systems, but only two had block contracts (for a very small number of placements) and there was just one cost and volume contract. They found that a significant proportion of placements continued to be made through spot purchasing. My visits to local authorities, and to providers, confirmed that to be the case. I also found that prices obtained through framework agreements were often only marginally better than spot purchase prices (and were occasionally higher). As Oxford Brookes concluded: “framework agreements were there to be broken or at best simply used as a guide to pricing.”

Savings

Oxford Brookes concluded that consortia made savings, but that they were generally modest and not easily attributable exclusively to the contracting arrangements:

“The evaluation of savings is complex because the savings that some local authorities have achieved are attributable both to lower costs delivered through consortia framework contracts, and changes in their practice and management of placements.³⁵”

I believe there is scope for local authorities to obtain significantly greater savings. At the moment they do too little to exploit their combined position as a sole purchaser of beds, and they incur a heavy financial penalty as a consequence.

The Cross Regional Residential Project

This project, coordinated by Buckinghamshire on behalf of six local authorities is an exception and shows what can be achieved. In 2010, the partnership tendered for

³⁵ Oxford Brookes University: The Efficacy and Sustainability of Consortia Commissioning of Looked After Children's Services, July 2015

the provision of twenty highly therapeutic residential places, and awarded the contract to Keys Childcare³⁶. It is a block contract, so the contractor is assured that they will be paid for their beds at all times. Each local authority has an allocation of places and occupancy rates have remained high.

Establishing the project, and obtaining long-term agreement from six authorities was challenging, and the nature of the contractual agreement reflects that: if a single one of the six authorities resigns, the partnership is dissolved. But the rewards have justified the pain in persevering with partnership. Oxford Brookes estimated that the contract had saved £500 a week for each placement. But that figure may be an under-estimate. Keys Childcare, the provider, demonstrated to me that the places they provide under this contract are now between £750 and £1,600 cheaper per week than equivalent provision bought by other local authorities. And Simon Brown, the Social Work qualified Buckinghamshire commissioner, who created and manages the project, calculated for me the additional cost to his local authority of buying comparable places from other providers. His analysis suggests that the average saving, per place per week, with the Keys contract was £1,321.

Applying that figure to all twenty places and over a year, suggests reduced spending by the six local authorities of about £1.4million: such are the savings available to commissioners when they are able to give providers assurance about bed occupancy. Running with a significant proportion of unfilled places can be challenging for the largest providers. It can be ruinous for smaller organisations, when staffing and almost all other costs remain static but income plummets. Almost every provider to whom I spoke told me that they could and would reduce their charges if they could be sure of having a consistently low level of vacancies.

Achieving savings through commissioning which links prices to occupancy does not depend on having block contracts. While I am clear that there is scope for much more block contracting, the small number in existence and particularly the fact that only two consortia operate them did not surprise me. Sharing costs between authorities within consortia, some of which may never or rarely take up a block contract bed, is complicated. But there is considerable additional scope to save through the wider use of cost and volume contracts.

The Oxford Brookes survey found only one consortium that operated one of these contracts (where prices drop as spend with a provider increases). The single example is in the East Midlands where Northamptonshire leads on behalf of nine local authorities. Although this is not much more than a framework arrangement, where modest additional discounts are obtained when occupancy is high, the additional savings are significant. Oxford Brookes calculated them as amounting to about 4%. For a consortium buying 169 places at an average weekly cost of about £3,000, this suggests annual savings of over £1million. But I suspect that savings of a greater magnitude could be made through more aggressive negotiation.

³⁶ www.keyschildcare.co.uk

Some local authorities will be concerned that block or cost and volume contracts, will not deliver the savings that I anticipate because too often they might not be able to fill the beds they have commissioned. That may, occasionally, be the case, but not if regional consortia are large enough. And the potential for savings is so significant as to justify the occasional empty bed. I would be surprised if achievable savings were not greater than 5% overall and savings of 10% on a large proportion of placements should be possible. If a 10% saving on the purchase costs of just 50% of the approximately 3,800 placements in private and voluntary sector children's homes was obtained, and using an average cost per place of £3,000, that would amount to a reduction in spend for local authorities of about £30million a year. I believe that estimate to be conservative. But it will not be obtained without a significant expansion of high quality commissioning. An early priority for the Department for Education must be to facilitate the improvement of local and regional commissioning skills. Simultaneously, the Department for Education must require local authorities to come together into large consortia for the purpose of obtaining significant discounts from private and voluntary sector providers. This is not, I stress, simply about exerting financial pressure on providers. Homes will welcome greater assurance about occupancy and, as they told me repeatedly, will be able to afford to lower their unit costs. At the moment they often have to set prices to cover the probability of under occupancy. A minority of providers might object to discounting prices, indeed I heard from one owner who was alarmed at the prospect of such arrangements. But only because his home was inevitably full and yet he did not have to offer a discount to any one of the same four local authorities which used all his places, but purchased them individually.

The commissioning and purchasing of residential care is a complex process and one that cannot, and should not, be unduly price led. Getting the right place for each individual child is the priority (although when local authority expenditure is under such pressure, it is entirely appropriate for the cost of placements to be a significant factor in the decision whether and where to place a child). Some providers and commissioners protested that block or discount contracts would prohibit shopping around for the very best placement for a particular child. But the reality is that the placement of children at the moment is frequently haphazard, with decisions often dictated primarily by availability and the need to place a child within days or hours. I am entirely confident that block and discount contracting need not lead to placing children inappropriately (particularly if local authorities come together into large enough consortia, able to contract with a number of providers). Many local authorities already use what is essentially, block contracting for their own homes, where they have to manage the risk of beds not being filled. It is absurd to think they cannot to do so with other providers.

Knowledge about bed availability

Working on their own or even in consortia, local authorities are frequently not well-informed purchasers and this contributes to their inability always to get the best place for a child and at the best price. At almost every home I visited, I heard about the process of local authorities issuing expressions of interest on a round robin basis,

asking homes to respond – often within hours – to indicate whether they could provide a place for a particular child. When such an offer comes from a home outside the local authority or consortium area, a decision to place a child might have to be taken on very limited information, because, frequently, there is a lack of knowledge about the home. As Oxford Brookes reported

“It was not possible to identify one consortium that had formal arrangements for accessing a wide range of providers further afield... This means that whilst commissioners may have access to good knowledge about their local provision, they may not have, or may not have access to, good knowledge about placements further afield.³⁷”

There’s little excuse for this. Ofsted told me that they have an online register of children’s homes with names, location and details of inspection results of every home in England. Yet more than a quarter of local authorities have never accessed this information.

And whether a home is two miles away, or two hundred miles away, commissioners are generally unaware of whether there is a place available. In part this explains the practice of emailing expressions of interest to large numbers of homes or phoning around to find whether a bed is available. This gap needs filling urgently. I have been very impressed with *Link Maker*³⁸ a social enterprise that has grown out of the very successful *Adoption Link* (which in the twelve months to March 2016 matched 513 children with adoptive families). *Link Maker* has moved beyond adoption and now offers a linking service for fostering and is close to offering a link service for residential care placements. This initiative - developed without public investment - has the capacity to provide commissioners with vital and up to date information, including vacancy data, on all independent children’s homes. The proposed costs are modest. For a local authority which already uses *Link Maker* for family finding, the additional costs for residential care will typically be around £3,000 a year. Small independent children’s homes of ten beds or fewer will not have to pay at all while, for example, a provider of 30 places would have to pay *Link Maker* just £900 annually. I recommend that the Department for Education urge local authorities and consortia and all providers to subscribe.

Do Some Private Sector Homes Make Excessive Profits?

The presence of the private sector in the children’s home market is a source of considerable suspicion and sometimes mistrust. Many individuals and organisations expressed a view that the involvement of the private sector in residential care, irrespective of the magnitude of profits made, was unacceptable. For example, the National Youth Advocacy Service (NYAS) told me:

³⁷ Oxford Brookes University: *The Efficacy and Sustainability of Consortia Commissioning of Looked After Children's Services*, July 2015

³⁸ <https://www.linkmaker.co.uk/features>

“It is of concern that children’s homes are seen as an opportunity to make a profit. Privatisation... can lead to inappropriate and sometimes unsafe placements which we have reported to Ofsted and local authorities. One NYAS Regulation 44 Manager has referred to ‘a poverty of ambition’ on the part of private providers.”³⁹

Related to this frequently expressed antipathy toward private sector involvement, is the view that some companies are making excessive profits. This was certainly the view of The Howard League for Penal Reform, which, in a publication earlier this year⁴⁰ alleged that some providers were concerned only with financial gain. The Howard League is not alone in having this view and there is fairly widespread suspicion in the sector and elsewhere about the involvement of some very large companies (eleven companies own a quarter of all children’s homes).

The Howard League was particularly critical of *Cambian Group*⁴¹, which is currently the largest of the private companies involved in children’s homes:

“In the financial year ending 31 December 2014, The Cambian Group’s revenue increased by 12 per cent to £240.6million. (This does not just include profits from children’s homes)... Cambian was founded by GI Partners, a US-based private equity company, which is still the controlling shareholder of the company. In 2014, Cambian merged with Advanced Childcare, which was, at that time, the largest provider of children’s homes in the country; it was also owned by GI Partners.”⁴²

It may be that providers are taking what might be considered excessive profits. But, if so, it is hard to understand how their prices remain competitive. If very large profits were being made by a significant proportion of private providers, we should expect their homes to be considerably more expensive than local authority homes. But they’re not. I have seen nothing to contradict the conclusion reached by Price Waterhouse when they looked into this for the then Department of Children Schools and Families in 2006⁴³ when they concluded:

“The perception is held by many local authorities that private provision is more expensive than in-house provision. Our conclusion is that this is perception only, and is not substantiated by a consistent analysis of like for-like data by local authorities.”

Differentials in pay and conditions for staff may certainly explain why private operators are able to make some profit. Their staffing costs are certainly lower. They appear to use staff more efficiently and pay them less generously. Local authority homes, irrespective of their size, have higher staffing averages than

³⁹ NYAS submission to this review

⁴⁰ The Howard League: *Children’s Homes and Criminalising Children*, 2016

⁴¹ www.cambianguroup.com

⁴² The Howard League: *Children’s Homes and Criminalising Children*, 2016

⁴³ Price Waterhouse Coopers: *Overarching Report On Children’s Services Markets*, 2006

privately run homes (15 compared to 11).⁴⁴ And local authority staff are paid more, earning an average of £13.28 an hour compared to £9.39 an hour in private sector homes and £10.15 in voluntary sector homes⁴⁵

But I've seen nothing to justify the view that private companies think only of profit and there is no evidence to support the Howard League and NYAS assertion that the quality of care in privately run homes is poorer than that in local authority or voluntary sector homes. Using Ofsted ratings, it is hard to distinguish any substantial or enduring difference between the quality of the private, voluntary or local authority sectors. Between March and September of 2015 all three sectors got good or better ratings for at least 70% of their homes. A greater proportion of local authority homes (18%) than private sector (10%) or voluntary sector homes (15%) were rated as outstanding. But a smaller proportion of private homes (5%) were judged to be inadequate compared with 7% of homes in the local authority or voluntary sectors.⁴⁶ In my experience, homes feel very much the same as one another, whether private, voluntary sector or local authority run. There's an invariably shared culture and appearance and staff move their employment from one sector to another and back again.

Oxford Brookes⁴⁷ made a comprehensive study of the finances of private sector operators and found:

"In their last reported accounts, half of the top twenty providers studied reported weakened balance sheets compared to a year earlier. Two thirds of the top 20 groups of providers are trading below the bottom of the range typically seen in other asset-based sectors such as care homes for adults... For over half of the top 20 group, trading conditions worsened in the most recent period reported. In general, looking across financial performance data over a period of years it would appear as if the relative profitability of the children's homes sector is lower than in adult services, fostering or residential special schools."

This is a business with some uncertainty. As one chief executive of a distinguished charity told me:

"Residential child care, particularly at the specialist clinical end, is an immensely difficult enterprise to sustain. The low volume/high cost equation means that we only need to have a few beds empty and we are losing a great deal of money very quickly."⁴⁸

The available evidence does not support the proposition that private sector operators are generally behaving in an exploitative fashion. That said, it is impossible for me confidently to state what magnitude of profits any of the large

⁴⁴ A census of the children's home workforce, Department for Education, January 2015

⁴⁵ Ibid

⁴⁶ Local authority and children's homes in England, inspection outcomes. Ofsted December 2015

⁴⁷ Financial stability, cost charge and value for money in the children's residential care market

⁴⁸ Private conversation

operators are currently making from children's homes. Some of them are involved in related businesses like fostering and adult care and some do not operate only in the UK. And a trail of mergers, buy-outs and financing makes it hard to establish certainty about financial performance. This has caused great concern to the hugely respected MP, and chair of the All-Party Parliamentary Group on missing children, Ann Coffey. Her anxieties were echoed in a report published in May by the Centre for Research on Socio Cultural-Change. They were reviewing private sector performance in the adult residential care market, but they might easily have been writing about the children's market:

"Care home chains are adept at taking money out (cash extraction) and prone to recurrent crisis because the chains are bought and sold frequently often using debt leveraged buyouts which means sale prices are inflated and the chains are loaded with ever more debt until the cash flow cannot cover the financing cost."⁴⁹

In my conclusion to this report I suggest that the Department for Education should create a Residential Care Leadership Board to help direct the sector, bringing together commissioners and providers along with academics and other experts. If Ministers accept that recommendation, such a Board might usefully explore at an early stage whether clarity around transparency of ownership, open book accounting, and the pay and conditions of employees (poorer pay and conditions being usually linked to staff turnover) might afford greater confidence to commissioners, to the public, and to Parliament about private sector operators.

Persuading the voluntary sector to expand in this market

There would certainly be more confidence in the market if providers from the not for profit sector were willing to return to this work in larger numbers. At the moment the presence of the voluntary sector is too small to offer a competitive challenge to private sector providers. This may not be straightforward. Public awareness of historical abuse scandals may have reduced somewhat, but the memories still scar the large charities such as Barnardo's, which once dominated this work. The fear of further reputational damage, caused perhaps by the exposure of further abuse, has been enough to deter their return to residential care. Simultaneously, I believe that other charities, those which currently provide or have provided residential care, and those which have not, are discouraged by the perception that residential care is an anachronism, demand for which will continue to decline.

I hope that charities in England will consider entering or expanding in this market and I know that at least one highly respected Scottish charity is interested in opening homes in England. I believe a strong Ministerial signal that the role of residential care is valued will restore confidence. But I also suggest that the

⁴⁹ Where does the money go? Financialised chains and the crisis in residential care

Innovation Programme at the Department for Education might be used to ease entry to the English market for new or expanding voluntary sector providers.

Using staff more effectively

Local Authorities might get better value for money from children's homes if both the homes they run directly and those from which they buy places were to examine the potential of using staff more efficiently. On a number of occasions and when visiting homes, generally between nine and five during the week, I was struck by the presence of relatively large numbers of staff when no or few children were in the building. Staff attendance systems seemed frequently to be flat, producing the same or a similar number of staff throughout the day and evening. Where a manager worked 9 until 5, this meant that when the home was busy with children, generally during the evening, there might be fewer staff around than during the day when the children were at school. It appears to be the case that, in a minority of homes at least, attendance systems are more convenient for the staff than for the children who live there.

As one particularly impressive manager told me:

"Before my time all kids at [the home] were schooled on the premises so shifts were fixed and staff were given a very generous leeway (4 day weekends). As our young people have begun attending mainstream provision we have changed shifts so that during the days we have minimum staff on duty, as Managers can carry out any errands or minor tasks if needed. We have changed from 8-5 and 5-11 shifts to having one 'sleep in' staff member stay on to do school runs and finish at 9am, and a staff member starting at 3pm to do school pick ups. This works really well and it means staff are around after school hours to support the young people when they actually need it."⁵⁰

But attendance has not always been managed as conscientiously as this and one or two senior managers from local authorities were honest enough to share with me that this issue has not been tackled, in part because of a reluctance to challenge staff. Of course, a balance has to be found, and I'm certainly not recommending, for example, the use of split shifts or other approaches which make life very difficult for employees. But providers need to examine their staff attendance systems to ensure they are as effective as possible in meeting the needs of children. And commissioners, when placing children, should look closely at the numbers of staff on duty at key times of the day.

Recommendations:

Recommendation 1: An early priority for the Department for Education must be to facilitate the improvement of local and regional commissioning skills.

⁵⁰ Private communication after a visit to the home.

Simultaneously, DfE must require local authorities to come together into large consortia for the purpose of obtaining significant discounts from private and voluntary sector providers.

Recommendation 2: I recommend that the Department for Education urge local authorities and consortia, and all providers, to subscribe to Link Maker.

Recommendation 3: I suggest that the Innovation Programme at the Department for Education might be used to ease entry to the English market for new or expanding voluntary sector providers.

Recommendation 4: I recommend that providers examine their staff attendance systems to ensure they are as effective as possible in meeting the needs of children. And commissioners, when placing children, should look closely at the numbers of staff on duty at key times of the day.

2. Fostering, closeness to home, the size of homes, and secure care

Residential care and fostering

Despite my admiration for much of what I have seen in children's homes, it is entirely proper for local authorities, at least initially, to pursue fostering as the first choice for children in care. We know that fostering won't work for every child - and I heard from many children in care, and care leavers, keen to remind me that a foster family could not replace or replicate their own family, which was why they preferred to live in a home. As one adolescent child told the Children's Commissioner: Younger children "are better in foster placements because it's important for them to have a family. As I was older, I felt I already have a family and didn't want a new one"⁵¹

But fostering is the right choice for most children who cannot return home, enter special guardianship, or who are unsuitable for adoption. And local authorities must treat it as the first option, not least because it is much less expensive than residential care. According to DfE, the average cost of foster care has been estimated at around £600 per child per week compared to around £3,000 per week for a child living in a children's home. It would be ridiculous to pretend that such a cost differential can be ignored. So I entirely accept that local authorities will generally need to try fostering first. But, particularly with adolescents, the possibility that residential care might be the better option and offer greater permanence – not least because some older children will steadfastly resist being fostered - must not be ignored.

Using residential care as a route to fostering for some older children

Although fostering does not seem to work for some children, particularly adolescents, I believe that residential care can sometimes be used to make fostering a success, even when it might have failed previously. And evidence suggests this can be achieved with the most challenging of older children – those who might be very resistant to the notion of being fostered - as demonstrated by the excellent *No Wrong Door* (NWD) initiative in North Yorkshire.

Two children's homes in this geographically vast county act as hubs. Each hub provides placements in mainstream residential care; emergency beds; community foster family placements; supported accommodation and supported lodgings with outreach support. Children often move from one type of placement to another, but the key element of the NWD approach is ensuring that each adolescent has one key worker who works with him or her throughout.

⁵¹ Children's Views on Residential Care (Office of the Children's Commissioner for this review) January 2016

The quality of residential care provided in North Yorkshire is of exceptional quality (one of the two hubs had a full Ofsted inspection as I was completing this report) and the Ofsted commentary – alongside the *Outstanding* rating - is remarkably positive.⁵² I found No Wrong Door staff to be passionate about residential care, insisting that it had a critical role to play in providing the time and opportunity to nurture relationships. But they sometimes use it as a platform for longer term work directed at eventually placing a child in a family setting. They are challenging the belief that large numbers of children can never succeed in foster care. They told me:

“It is the underlying ethos of NWD that residential care is not the best permanent option for young people. Although it has a very important place within a spectrum of interventions - it has fundamental difficulties in supporting young people to develop and sustain life long secure attachments. The NWD approach therefore seeks to challenge the concept that young people are unable to secure such attachments within a family environment. We do this by challenging traditional methods of securing such placements, with a more sophisticated approach which puts relationships at the very heart of matching and practice.”⁵³

While I do not share their certainty, I admire the ambition of NWD when they argue that

“It is not acceptable to say there are some young people who cannot live in a family placement... for some, we simply haven't found the right approach, carer or mechanism to achieve this.”

The evidence from this initiative suggests that there is considerable merit in more frequently viewing residential care, not as the end of a journey, but having the potential to act as a bridge to a different fostering experience, not least by blurring the boundaries between fostering and residential care (by, for example, bringing prospective foster carers to work in a children's home, getting to know the child for whom they might eventually care). The NWD approach acknowledges that some children will move between residential care and foster care and back and forth again but crucially, back and forth to the same foster carers. The calibre of those carers appears to be crucial to the success of the initiative. Their role is immensely challenging and the payments that North Yorkshire makes reflect that. A carer looking after a child aged 16 receives a payment of about £700 a week which, grossed up, is equivalent to a salary of more than £50,000

The emerging evidence supports the North Yorkshire view that they are achieving better outcomes for children, particularly those close to leaving care. Simultaneously they are saving money. I was able to examine a number of case studies where, alongside the obtaining of much improved stability for older children who had severely fractured care histories, annual savings for each child in the region of £70,000 - £90,000 were being achieved.

⁵² Ofsted URN: SC034235, 11 February 2016

⁵³ Submission to this review

The recognition that the foster carers who might succeed in the care of extremely challenging adolescents need to be of exceptional resilience and ability and need to be compensated accordingly is not unique to NWD. I was also impressed with the Together Trust's plans in this regard.⁵⁴ In cooperation with local authorities, they too are seeking to move children from residential care into specialist foster care. Their recruitment policy captures the scale of the challenge. They look for carers without children under sixteen. They prefer to recruit couples in long established and solid relationships and who have professional experience of childcare as well as being able to demonstrate strong evidence of resilience and emotional and mental stability. A willingness to make a long-term commitment to a child is vital (although the Trust provides annual respite care for carers to make the placement more manageable). Costs to local authorities are considerable, between £950 and £1,400 a week per child, significantly in excess of standard rates for fostering. But if the prize is the removal of a child from a residential placement then the investment is bound to be worthwhile. Using a specific case study of a fourteen-year old boy, the Together Trust has demonstrated that savings over the last four years of his childhood have amounted to some £310,000.

Fostering

The challenge is to recruit sufficient foster carers of the calibre and resilience needed to care for such challenging adolescents. During many of the interviews and evidence sessions for this review, concern was expressed about an increasing dislocation between the types of foster carer generally recruited (whether by local authorities or by the voluntary or private sector) and the needs of children needing to be fostered. And while I remain unconvinced about the alleged excessive profits taken by private sector organisations running children's homes, there may be rather more to concern us when it comes to private foster care. Earlier this year, *Corporate Watch* reported evidence of what might be very substantial profit taking alongside, in some cases, tax avoidance by some private sector operators.⁵⁵

One Chief Executive of a voluntary fostering agency was strident about this earlier this year. The Chief Executive of The Adolescent Children's Trust (TACT) told the Guardian that:

"In 2014-15, eight commercial fostering agencies made around £41m profit between them from providing foster placements to local authorities. This is pure profit. It's after allowances for foster carers, staffing costs and support services... The fact that £41m of public taxpayers' money, allocated to support children in state care, actually ended up in the pockets of ... some seriously rich capital firms is obscene."⁵⁶

⁵⁴ www.togethertrust.org.uk

⁵⁵ Corporate Watch: The Foster Care Business <https://corporatewatch.org/news/2015/dec/15/foster-care-business>

⁵⁶ The Guardian, January 11 2016

Most of the concerns expressed to me in private interviews were confined to the activities of the private sector, although the prices charged by some voluntary fostering agencies – and the possibility that they might be achieving significant financial surpluses - were also of a concern to some. I was able to inspect, in some detail, the fostering costs of one very large local authority. That authority currently has 348 children placed with foster carers recruited directly by the local authority. The local authority estimates that the mean cost of one of those placements is about £396 a week. Additionally there are more than 279 children placed with foster carers recruited by the private sector, at a mean cost of £759, and 43 placed with carers recruited by the voluntary sector, at a mean cost of £709. Private sector operators are therefore charging almost 92% more than the local authority's direct recruitment costs and the voluntary sector providers are charging 79% more.

The local authority underestimating its own overheads might explain part of that gulf. Or, it may be, that private and voluntary sector agencies are fostering more challenging children, or are using more staff to support placements (which consequently might disrupt less frequently). But, even so, a price difference, per fostering placement, of more than £300 a week seems very large. Crucially, the energetic and impressive director in this authority, now determined to obtain large volume discounts from these providers, told me there was little, if any, qualitative difference in the quality of carers provided.

We must ensure we are recruiting and retaining the best possible foster carers, and with a sufficient number able to care for the most challenging children. And we need to pay foster carers well: their contribution is often heroic. But we also have to ensure that the charges that local authorities pay providers are not unnecessarily inflated. The local authority used in the above example spends nearly £13million a year placing children in private or voluntary foster care. Adoption and residential care have been subject to a great deal of attention and review in recent years. Fostering, by contrast is overdue a fundamental review and this should be a priority for the Department for Education.

Closeness to home

A number of those who provided evidence, including, significantly, the Education Select Committee, stressed the importance of a child in residential care being located close to their home. In 2014 the committee declined to make a specific recommendation but told the government that they could: "see the attraction of adopting a rule which prohibits the placement of children more than twenty miles from home unless there is a proven need to do so."⁵⁷

Section 22G of the Children Act 1989 - as amended – already requires local authorities "to take steps that secure, as far as reasonably practicable in all the circumstances" that there is sufficient accommodation to meet the needs of looked

⁵⁷ Education Select Committee, Residential Children's Homes. March 2014, paras 77-82

after children (the sufficiency duty). Supplementary DfE guidance supports the use of distant placements only when a child has complex treatment needs, which cannot be met locally or where there are safeguarding concerns which require a child not to be near home.⁵⁸ Nevertheless, it is the case that the proportion of children living out of area has been increasing. The percentage living in children's homes within the local authority boundary dropped in 2015 to 41%, from 43% in 2014, and 46% in 2013⁵⁹ but I am not at all convinced of the practicality, or the desirability, of imposing a geographical limit on a child's placement (whether of 20 miles or a greater distance).

There will be particular cases when remaining close to home is genuinely vital. And in a larger number of cases, closeness to home will carry some advantage, when, for example, a child is preparing to leave care when local authority influence over services such as housing, health, education, adult and mental health services may be key to a successful transition to adulthood. But, generally speaking, and after visiting homes, talking to staff, to children and to care leavers, I have concluded that the priority should be getting a child in the home that can best care for them, with the location of that home being a secondary consideration.

Stephen Blunden, the Chief Executive of the impressive Childhood First⁶⁰, a charity whose homes care for children who have experienced high levels of abuse, neglect and deprivation, and as a consequence have severe emotional and psychological difficulties, told me that for such children, a distant placement might be of benefit:

"A counter-cultural truth is that these children are generally best looked after at a significant distance from their home community, and preferably in a rural setting. Anything else is likely to be unsafe. When pressed on such issues by Inspectors or LAs, our children are really clear: "What has my community ever done for me?"

The equally impressive Mulberry Bush⁶¹ and the Caldecott Foundation⁶², both of whom had placements from local authorities at a considerable distance, told me that issues around distance could be managed, not least when email, Skype and Facetime are so accessible, and when local authorities routinely provide financial help to allow parents to visit their children. Both of these impressive providers told me that a placement should be child specific not location specific. Oxford Brookes were similarly un-persuaded that the distance from home issue was vital: "There was risk in having too strict location criteria as there are instances where the need to meet a child's combination of rare or specific individual needs is more important

⁵⁸ The Children Act 1989 guidance and regulations- volume 2: care planning, placement and case review. June 2015, para 3.31

⁵⁹ Ofsted data on placements of looked after children, year ending 31 March 2015 (published 10 May 2016)

⁶⁰ <http://childhoodfirst.org.uk>

⁶¹ <http://www.mulberrybush.org.uk>

⁶² <http://www.thecaldecottfoundation.co.uk>

than the location of a placement.”⁶³ Kathy Evans, the Chief Executive of Children England (who started her career in residential care) told me she was “intensely relaxed about closeness to home.”

I am not suggesting that location does not matter. It does. But the issue is not remotely as straightforward as often suggested. Most of those who commission places know this and search for the right home before the right location. Indeed, we can be encouraged that in both 2015 and 2014, and despite the pressure for places, London had the highest percentage of their available children’s homes places unfilled.⁶⁴ This suggests that commissioners are doing the right thing, not the easy thing. I urge local authorities and consortia to be cautious about following any hard and fast rule about placement distance and to recognise that the right placement for a child is more important than location. They should no longer impose geographical restrictions on where homes must be located in order to be included in framework and other contracts.

That said, the goal for commissioners should be to have the right home and situated reasonably close to a child’s home (when that is assumed to be to the child’s benefit). As the introduction to this report has illustrated, there is a significant disparity in the location of homes with an over-supply (relative to local need) in the north-west and an under-supply in the south-east. And yet, during this review, I met providers who were continuing to expand into the north-west.

Lack of market management

I saw very little evidence of market management, that is commissioners encouraging or persuading providers to set up the right type of home in the right location. Instead, I found a general sense of resignation about the uneven distribution of beds. Oxford Brookes similarly discovered an absence of market development concluding that

“All the consortia spoken to [saw they had] a role in market development but recognise that this is underdeveloped. No consortia had a Market Position Statement. All recognised the benefits of developing a more forward looking approach to describing what they need from the market and helping the market understand their needs.”

Alongside the increased use of block and discount contracting, as I recommend in Chapter 1, consortia can and should do more to influence the development of the market for children’s homes. If providers are convinced that beds will be filled they will, I believe, be willing to open more homes in the places where commissioners want them, including in the south-east. The cross regional partnership (see chapter

⁶³ The Efficacy and Sustainability of Consortia Commissioning of Looked After Children's Services July 2015 ipc@brookes.ac.uk

⁶⁴ Ofsted data on placements of looked after children, year ending 31 March 2015 (published 10 May 2016)

1) shows what can be achieved when commissioners seek to steer the location of new homes.

All local authorities with statutory planning functions publish a Local Plan which sets the direction for future development and which should inform planning decisions. The plan should address the housing needs of looked after children in residential care and whether an area needs more children's homes or not. I recommend that local planning authorities should review their Local Plans, to include a clear statement of the housing need for children in children's homes, so providers understand whether or not additional homes are required.

It was frequently suggested to me that the stark differences in property prices effectively prohibited the opening of new homes in the south-east because of the burden of those higher prices. But that was not the conclusion of the National Audit Office in their 2014 review. They concluded that there was no clear correlation between house prices and the costs of residential care. I accept that property prices provide a challenge, but not an insuperable one. Using the most recent Land Registry prices⁶⁵ the average cost of a detached house in the south-east is £239,000 more expensive than one in the north-west (many homes bought for use as children's homes, will not be detached so this price differential probably exaggerates the additional cost of investing). That amount, spread over, say twenty years, implies additional weekly costs of only £230, or for a home with four places, about £58 per bed per week, very little when weekly fees for a child are typically £3,000.⁶⁶

The size of homes

Children's homes have seen a reduction in size in recent years. The average now provides four places, and over three quarters of all homes registered between 2012-2016 were for five children or fewer. A quarter of those were for only one or two children. I noted a frequently voiced assertion that smaller homes (four places or smaller) are likely to be more effective than those a little larger. And certainly many providers told me that Ofsted believes that smaller homes are more effective. Following discussions with them about that issue I welcomed Ofsted's decision to publish in May a myth buster, explicitly correcting that.⁶⁷

There is no evidence to suggest a home of three or four places is likely to be any more effective than a home of six or seven beds. What is important is the avoidance of institutionalisation. Poorer homes will require children to fit into pre-determined routines and have an institutional feel about them. According to Roger Clough what

⁶⁵ Land Registry House Price Index, March 2016

⁶⁶ This simplified example does not take account of borrowing costs, but nor does it take account of the fact that a developer would, over this period, acquire a valuable asset.

⁶⁷ Ofsted April 2016

matters is that “daily life within the home is built from an attempt to produce systems that best match residents’ wants and needs”⁶⁸

In his revealing 2011 analysis of life in ten children’s homes Berridge did not find that the size of the home was the cause of institutionalisation, but was the result of other attitudinal factors which were simply better managed in some homes, irrespective of size:

“Despite the reasonably comfortable décor, several of the homes seemed to us to retain unnecessarily institutional features. In at least three homes, when the telephone rang a bell sounded loudly through the home; in contrast, in some other units, staff had overcome this by carrying cordless phones to avoid the constant clamour and interruption. In another, certain lights constantly went on and off when they detected movement. Elsewhere, a member of staff chose colour schemes and posters and young people said that they did not have a say in the decisions. A few homes had visible ‘health and safety’ posters and collections of young people’s leaflets on display, on issues such as nutrition and healthy eating or sexual health. While important, these would not usually be displayed in a family home and reinforce an institutional feel... Many homes managed to avoid these institutional features without adverse consequences. We should attempt to make residential environments as ordinary as possible in order to facilitate everyday, therapeutic relationships and reinforce young people’s self-esteem and aspirations.”⁶⁹

A number of providers stoutly contradicted the assumption that smaller meant better. David Knowles, the managing director of Acorn Group, a family owned company⁷⁰ told me “As a company we do not value small homes over larger ones. Our experience is that larger homes, with elements of community living and more resources, are much more competent and successful.”⁷¹

The Mulberry Bush argued that sometimes, small homes can be too intense for children: “We increasingly have children referred who are not able to sustain the intensity of living in a small family unit. The larger institution seems to reduce the intensity of the relationships and provides an opportunity to develop the social and emotional skills to live alongside others without spreading overwhelming anxiety into others.”

Stephen Blunden from Childhood First also argued that larger homes were better for some particularly challenging and damaged children:

“A counter-cultural truth is that these children and young people are most effectively or safely looked after in larger units... Our homes typically, and

⁶⁸ Clough quoted in ‘What works in Residential Care’, National Children’s Bureau 2006

⁶⁹ Living in Children’s Residential homes: David Berridge, Nina Biehal, and Lorna Henry. Department for Education 2011

⁷⁰ <http://www.ahgroup.eu/>

⁷¹ Evidence to this review

unfashionably, look after 6-18 children, and we look after them in two age ranges – 5-12 years old and 11-18 years old. Up to a point, and varying with age, the larger the group the more effectively the peer dynamics can be orchestrated to keep the children safe and to offer the rich relational environment that they need to be healed. We deploy a specialist therapeutic culture and knowledge that has been built up over half a century. And in comparison to families, we have a shift system of staffing, so that the adults can cope with the enormously challenging impacts of these children.”

What is certain is that smaller homes are likely to be more expensive and there is likely to be greater pressure on them to fill spaces. As Oxford Brookes reported:

“Given homes have shrunk in size then a major contributor to volatility in the market is occupancy levels, i.e. a home with four children could be financially viable, have a vacancy for a substantial period of time and it could mean serious financial problems for providers.”⁷²

I suspect that the growing number of smaller homes owes less to the search for greater quality of care and more – in some areas - to the relative ease of obtaining planning permission for small homes. The 1987 Town and Country Planning Order puts uses of land and buildings into various categories known as 'Use Classes'. Normal family homes (dwelling houses in the legislation) are in class C3. Non-secure children's homes are in class C2 (residential institutions). To convert a dwelling house into a children's home will generally require planning permission.

When change of use from a C3 classification (dwelling house) to a C2 classification is being considered, planning authorities and the courts will look to a 2003 judgement in North Devon⁷³ which although confirming that a children's home fell into the C2 classification, stated that planning permission would only be required if there had been a *material* change of use from a dwelling house. The courts have held that whether a change of use is *material* is for the local planning authority to determine. And in making that determination, planning authorities take varying views.

Providers told me that the change of use from family home to a children's home is less likely to be seen as a *material* change, and therefore agreed quickly, if the home is for a smaller number of children. Additionally, the attitude of planning authorities and the extent to which some are seen to take a more relaxed approach to the definition of *material* change is well known to some providers. That may be one reason for the continued proliferation of homes in the north-west.

The Department for Education, in liaison with the Department of Communities and Local Government, needs to examine the extent to which the current interpretation of planning law is leading to a proliferation of newer smaller homes, which will certainly be more expensive to commissioners, but which are not likely to be any

⁷² Financial stability, cost charge and value for money in the children's residential care market

⁷³ North Devon District Council v First Secretary of State, Court of Appeal - Administrative Court, January 30, 2003

more effective than slightly larger units. At the same time the Department should assess whether differences in the interpretation of *material* between planning authorities is distorting the location of new homes.

Secure Places

The current and startling contrast between the price paid by the Youth Justice Board for secure accommodation, and the identical provision purchased by local authorities, emphasises the scope for much improved commissioning of secure places. But additionally, there is a need for clarity about the continuing need for secure establishments and an appreciation of the contribution they can make to keeping children safe.

The overall use of secure care as a proportion of children in care has remained flat in England for the last four years at just 0.03% of the care population. But there is a significant disparity in local authority use of secure accommodation. The use of secure beds by Inner London local authorities is three times greater than that of local authorities in the East of England. And within London there are some big differences: One local authority has used only one bed in five years, while another with a similar demographic has used 15 (and from a smaller care population). In the North-East, one local authority has used only one bed in five years, while another with a similarly sized care population, has used five. During the past five years, 12 local authorities (8%) have never used a secure place and 18 (12%) have used only one.⁷⁴

There are some strong feelings about the use of secure places. Some senior social work managers pride themselves on never, or very rarely, resorting to secure use because they consider that to do so, is somehow morally wrong, and that a child is being essentially imprisoned without due process. I believe that means that the benefits of a secure placement are sometimes overlooked by commissioners. At a late stage in this review, I was grateful to one conscientious and caring commissioner who shared with me her difficulties in placing a challenging child:

"I have had a horrible time this week trying to find a placement for a 15 year old boy and I am ashamed to say I have failed. We have tried to be as honest as possible about the risks our young chap poses in our referral so providers can put in the necessary support and care to mitigate these. Unfortunately despite an extensive search, locally and nationally, no one will take a chance on him. The complexity is his level of aggression, which together with an alleged sexual assault on [another child] and some very low level fire-setting makes for an unattractive offer. I can't solve this problem and it's keeping me awake at night... This lad is deemed too hot to handle."

What I found significant in this moving account of this commissioner's determination to find a safe place for this child was that a secure placement was not

⁷⁴ DfE Data Annex

being considered, as even a possibility, when, arguably at least, it might have provided stability and safety for this fifteen year old and safety for others

I think that the widespread antipathy to using secure places is well intentioned but misguided. Secure care has the capacity, if only temporarily, to take chaos out of a child's life and to keep them safe. In my experience of visiting secure homes, the presence of secure perimeters and controls on the free movement of children, do not mean that the home is likely to be any less caring or the staff any less focussed on the best interests of the child. Indeed, during my most recent visit to a secure children's home, Swanwick Lodge in Hampshire, I was struck by the exceptional challenge of the children there, the extent to which they were a grave danger to themselves and others, and the conscientiousness and dedication of the staff who cared for them. And the evidence suggests that, despite the relatively short periods for which they stay, children in secure homes make measurable progress. Children's reading age, for example, increases by a year on average. Secure Homes also achieve a range of health outcomes for children, including the diagnosing of their mental health issues. Instances of self-harm and risky behaviour reduce.⁷⁵ And, as the Secure Accommodation Network demonstrated to me, Ofsted ratings are marginally but consistently higher for secure homes than for non-secure homes.⁷⁶

As I have argued, the view of residential care generally as a last resort may have inhibited the development of effective commissioning. I believe that is certainly the case with the purchasing of secure beds. The Youth Justice Board cannot be said to be remotely cavalier about the use of secure accommodation for children in the criminal justice system. Indeed, during the last decade, they have helped secure a dramatic reduction in the need for places. Nevertheless, and even while reducing the volume of beds commissioned, they block purchase and have secured consistently large discounts. The YJB told me:

"We last obtained welfare prices from the YJB-contracted SCHs in August 2015. The average welfare price across the nine homes with which we were contracting was £738 per night. This contrasted with our average contracted price then of £559. This is a 32% difference...There is no doubt in my mind that the security of YJB block contracts enables us to get a better price – and I also feel that we are able to have better oversight of quality of provision than local authorities purchasing places on a one off basis with possibly no on-going relationship with the provider."⁷⁷

The Department for Education, ADCS and Hampshire County Council have established a new National Secure Welfare Co-ordination Unit, in Hampshire. The unit aims to remove some of the administrative difficulties and delays local authorities face in finding a suitable secure placement for a child and to collect data on any unmet demand for secure places. These arrangements are a big step forward. But there is more to do to get the best possible use out of secure beds. The

⁷⁵ Achieving outcomes and value for money in secure children's homes: The Justice Studio 2014

⁷⁶ Evidence for this review

⁷⁷ Note from the YJB Chief Executive, May 2016

Department for Education needs either to ensure local authorities come together to drive down the cost of secure placements to about that achieved by the YJB, or to commission secure welfare beds from the centre alongside the YJB. Simultaneously, the Department needs to lead a debate with the sector about the role and purpose of secure accommodation and what it can achieve, in keeping exceptionally challenging children safe, and in protecting others.

Secure care has an important place in the care of a small minority of children. It is troubling that uncertainty about that, alongside the reduced demand for youth justice beds, has led to the closure of a number of homes. Today there are only 245 secure places available in England and Wales, compared to 291 in 2010 (a 16% decrease).⁷⁸ Those places are in fourteen homes run by thirteen local authorities and just one voluntary sector provider. If one of those local authorities were to close their provision, then there would be an immediate crisis in terms of bed availability. The Department for Education need to consider how they might encourage alternative providers from the voluntary and private sector to enter the secure care market.

Using single bed homes as an alternative to secure

I heard from a number of sources that, because of either this antipathy to using a secure place, or because of a shortage of secure vacancies, the placements of children in single bed homes (or as the sole resident in a two bed home) was increasingly used as an alternative. This explains, in part, the surprising fact that almost a fifth of all new homes registered since 2012 have had just one or two places. We need to know much more about how effective such alternatives are. We certainly know that they are likely to be much more expensive than care in a secure home. The Together Trust told me that their single placements cost in the region of £5,000 a week, around 28% more expensive than the price paid for a secure bed by the YJB. The extent of the use of single placements for children (including an assessment of the cost and effectiveness of such arrangements) as an alternative to using secure accommodation needs to be investigated by DfE.

Recommendations:

Recommendation 5: Assuming the evaluation of No Wrong Door is as positive as I would expect, the Department for Education should encourage other local authorities to study the hub approach and the potential for this to help children into foster care.

Recommendation 6: We must ensure we are recruiting and retaining the best possible foster carers, and with a sufficient number able to care for the most challenging children. And we need to pay foster carers well: their contribution is often heroic. But we have to ensure that the charges that local authorities pay

⁷⁸ SFR15/2015: Children accommodated in secure children's homes: 31 March 2015

providers are not unnecessarily inflated. Fostering is overdue a fundamental review and this should be a priority for the Department for Education.

Recommendation 7: I urge local authorities and consortia to be cautious about following any hard and fast rule about placement distance and to recognise that the right placement for a child is more important than location. They should no longer impose geographical restrictions on where homes must be located in order to be included in contracts.

Recommendation 8: I recommend that local planning authorities should review their Local Plans to include a clear statement of housing need for children in children's homes so providers understand whether or not additional homes are required.

Recommendation 9: Commissioners should not purchase beds in smaller homes because of an assumption that they are likely to be more effective. The evidence does not support that assumption and Ofsted have made it clear that they do not have a preference for smaller homes.

Recommendation 10: The Department for Education, in liaison with the Department of Communities and Local Government, needs to examine the extent to which the current interpretation of planning law is leading to a proliferation of newer smaller homes, which will certainly be more expensive to commissioners, but which are not likely to be any more effective than slightly larger units. At the same time the Department should assess whether differences in the interpretation of *material* between planning authorities is distorting the location of new homes.

Recommendation 11: The Department for Education needs either to ensure local authorities come together to drive down the cost of secure placements to about that achieved by the YJB, or to commission secure welfare beds from the centre alongside the YJB.

Recommendation 12: Simultaneously, the Department needs to lead a debate with the sector about the role and purpose of secure accommodation and what it can achieve, in keeping exceptionally challenging children safe, and in protecting others.

Recommendation 13: The Department for Education need to consider how they might encourage alternative providers from the voluntary and private sector to enter the secure care market.

Recommendation 14: The extent of the use of single placements for children (including an assessment of the cost and effectiveness of such arrangements) as an alternative to using secure beds needs to be investigated by DfE.

3. The criminalising of children; staff confidence; setting boundaries for children; and the use of restraint

The criminalisation of children

This is an important issue, but one in which sensible debate and the pursuit of sensible reform is sometimes not helped by a simplification of the issues and the use of a certain amount of dramatic license to suggest that children are routinely criminalised for relatively harmless behaviour. In their recent report⁷⁹ The Howard League reported they had “heard one example of the police being called to a children’s home to investigate a broken cup.” If that happened at all, I don’t believe it is remotely typical.

News coverage of this issue is sometimes similarly fanciful. The Daily Mirror and other newspapers reported extensively in August of last year about a child being charged with theft for taking a choc-ice from the refrigerator:

“A vulnerable 15-year-old boy was hauled before court for taking a box of 70p choc-ices from a fridge. The teenager was charged with burglary and faced trial at magistrates’ court after eating one of the Asda Smart Price choc-ices. He found the box of desserts in a staff fridge at the care home where he lived in Hove, East Sussex, which looks after children with emotional or behavioural problems... He thought he was entitled to a choc-ice because he lived at the home in Hove. Speaking after the trial, heard in the boy’s absence, [the boy’s solicitor] questioned the handling of the case. He said: ‘Can you imagine the state prosecuting your child for not asking if can he have an ice cream from the freezer?’”⁸⁰

The Brighton Argus reported the same case as their front page lead and with a similarly dramatic headline: “Vulnerable boy dragged before court for stealing a choc-ice from his care home”⁸¹ But the truth was that police had been called because the child had broken into a locked area – where staff valuables were held – through an outside window. He burgled the home. As the Brighton Argus recorded “The care home stressed they called the police because they were concerned staff goods may have been taken... they did not call over the choc-ices.”

I am not suggesting that this child should have been prosecuted, quite the reverse. My understanding of the case, having been able to examine it, is that a local protocol with the police was not followed, and then the police decided not to use a restorative approach (which the protocol suggests might have been more appropriate). The CPS declined to discontinue the case and the Court did not move as quickly as it might have, to throw the case out. But the prosecution did not proceed. No one was criminalised. And the suggestion that staff involved the police,

⁷⁹ The Howard League: Children’s Homes and Criminalising Children, 2016

⁸⁰ Daily Mirror, 21 August 2015

⁸¹ The Argus, August 19 2015

because a child helped himself to an ice cream, is simply untrue. It might make for a good story to support an argument but it's a fiction.

Julie Shaw, a Research Fellow at the University of Strathclyde, analyses this complex issue with commendable balance in *Residential Children's Homes and The Youth Justice System*⁸² (published just as I was completing this report) and in an article published in Youth Justice last year.⁸³ First of all, Shaw acknowledges that the children who live in residential care, are inevitably the most challenging children and "their pre-care experiences, including those of abuse, neglect and poor parenting, have a part to play in terms of their propensity for problematic behaviour and likelihood of youth justice involvement."⁸⁴

But her interviews with staff from children's homes and police officers, contradict suggestions that the criminal justice system is involved recklessly or thoughtlessly. One staff member told her:⁸⁵

"The policy is that you call the police as a last resort ... I guess crucially, it's when there is a real, genuine, risk to staff or service users, or to the young person themselves. So (the decision to call the police) is not taken lightly at all ... we have sustained significant damage to the property and not called the police."

And a police officer said:

"Once it goes on and on and on and on, there has to be a cut-off point where you're showing the child the consequences of their actions and if they lived out in the real world, when they get out of care, they can't carry on like that, and they will be arrested if they cause damage to anybody else's property."
(Police Officer)

The Howard League believe that children are "pushed into the criminal justice system by homes which are supposed to be helping them."⁸⁶ And the Prison Reform Trust (PRT) - which published its own report on this subject just a few weeks after the Howard League - was reported as saying that "children in care are sucked into the criminal justice system for trivial reasons."⁸⁷ It is a pity that statement did not reflect the more nuanced conclusions of the PRT report, because, like the Howard League assertion, I believe it to be unfair. The Prison Reform Trust's laudable aim is that children in residential care - as far as is possible - are diverted from the criminal justice system and, particularly, from custody. I share that aim. But if staff, managers and owners of children's homes are not to be demoralised, it is vital to recognise just how much progress has been made. Of course there will be individual

⁸² Residential Children's Homes and The Youth Justice System: Identity, Power and Perceptions, Palgrave Macmillan 2016

⁸³ Policy, Practice and Perceptions: Exploring the Criminalisation of Children's Home Residents in England. Youth Justice 2015

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Howard League Press Release, 30 March

⁸⁷ The Guardian, 23 May

homes which are negligent in this respect. Occasionally there may be cases that unnecessarily reach the courts, or result in a child being needlessly reprimanded. But I found no evidence to suggest that happens remotely as frequently as suggested. I probed the records of about 15 homes and found the proportion of cases in which criminal behaviour led to formal police involvement to be genuinely small. And I found a number of examples of the most commendable behaviour by homes which tolerated criminal behaviour, both serious and persistent, without recourse to the criminal justice system. One manager of an Ofsted rated *outstanding* home in the private sector told me:

My Assistant Manager has been punched in the face twice by girls in the last 18 months. One senior [member of staff] was badly bitten and punched by one girl who was being massively sexually exploited. He had followed her for three hours, all the while trying to get police to try and meet him to stop her placing herself at risk. The controller said that help was on the way but it never appeared and she went missing again. The same Senior was recently punched in the face by a boy at the home. I recently had a plate and books thrown at me and had a new admission to the home spit in my face.

None of these incidents led to criminalisation of a child, although we have used the police as a way to calm a situation and allow a young person to see that their actions have consequences... We have never prosecuted a child for damage inside the home, of property such as vehicles, or to a staff member. Some have been to court for offences committed in the community, or prior to placement, and due to our intervention we have been able to prove to magistrates or CPS that progress is being made and rare offences are an aberration.

I examined data from a larger private sector chain (in part because of the Howard League assertion that such homes were particularly culpable). During the twelve months ending on May 31 2016, this chain had 50 children living in eight homes. During the year, and in response to allegedly criminal acts, the police were called on 19 occasions. Eleven arrests were made, including two for abuse directed at the police themselves. But on only three occasions was a child charged. It was significant that one third of the calls to the police related to just one child in one home. The majority of homes had not called the police at all during the twelve month period.

I asked another private sector provider to provide me with details of the extent to which they involved the police as a response to children's behaviour. The Chief Executive, told me:

"We do not involve police for any criminal damage to our properties, environments or cars unless specifically directed by the placing authority. This is a company policy. Over the last few years this has reduced police involvement in the homes significantly. In the last twelve months, in six children's homes, we experienced 336 episodes of criminal damage to the

homes, cars or environment totalling repairs of £42,302 and the police were contacted on 10 occasions only.”

He shared with me two recent case histories. This from the manager of one home:

Lizzie flooded the first floor bathroom and whilst barricaded in her room, kicked out the plaster board through to the landing, smashed her TV, broke up chest of drawers and wardrobe, and attempted to kick the water heater pipes out of the immersion heater... She also damaged four house windows, a car windscreen, a chest of drawers, a wardrobe, a lamp, cupboard doors, emergency lights, three fire extinguishers, and a door frame. [During the same week she damaged] a fire alarm panel, two further doors and door frames, a 32" TV, bannister, a dining room table and crockery...

The maintenance bill was over £10,000 for this young person over five months. [But there has been] no police involvement to date. Although criminal damage has been ongoing, we have no intention of allowing this to affect our work with Lizzie. She is angry and needs us.

And this from the manager of a second home:

An example I could give you is Janice, currently in placement. I estimate property damage for the last four months to be around £5000, and damage to cars now over £4000... The worst single day damage of £3000 was to a member of staff's car, which needed four panels to be replaced on a nearly new car. I can confirm that we have not called the police.

Not all providers will be as conscientious. But my sense is that most are, and, not least because of the growing involvement of restorative justice approaches (which I discuss below). But even if some homes involve the police unnecessarily, I don't believe that the police will routinely take formal action. They are not blind to the vulnerability of children and some have taken a proactive approach, ensuring officers have an informal presence in homes. In North Yorkshire, and following independent evaluation by the University of Loughborough, such an approach has been found to lead to a reduction in arrests and charges, but also improvements in behaviour including a reduction in episodes of children going missing. As a consequence police savings of £200,000 a year have been obtained.⁸⁸

But if trivial behaviour leads to police involvement and the police decide to recommend prosecution there is a further and substantial filter. The Crown Prosecution Service could hardly be more sympathetic to the need for a tolerant approach with children living in homes. Their guidance to prosecutors includes advice about the vulnerability of children living in homes, including their lack of support from family and the probability that they will have experienced abuse and neglect, as well as having been subject to the breakdown of foster placements and

⁸⁸ The Impact of No Wrong Door and the Embedded Police Roles: Lisa Holmes and David Gillson, Centre for Child and Family Research, University of Loughborough, April 2016

frequent moves from other homes. It is emphatic in insisting that the decision to prosecute must be taken by prosecutor who is also a youth specialist and that:

A criminal justice disposal, whether a prosecution, youth caution or youth conditional caution, should not be regarded as an automatic response to offending behaviour by a looked after child, irrespective of their criminal history. This applies equally to persistent offenders and youths of good character. A criminal justice disposal will only be appropriate where it is clearly required. Informal disposals such as restorative justice conferencing, reparation, acceptable behaviour contracts and disciplinary measures by the home may be sufficient to satisfy the public interest and to reduce the risk of future offending.

However severe the problem of unnecessary criminalisation has been, I am confident that this has substantially been addressed by homes, by the police and by the Crown Prosecution Service. Other commentators agree. One firm of solicitors in Manchester reacted swiftly after the publication of the Prison Reform Trust report:

“For several years, I and many others can attest to the fact that across the different regions, the care homes, local authorities, police and prosecutors offices have been increasingly avoiding bringing children into the system for such trivial matters. It was the case a decade ago that in every court across the land a youth court sat daily, they were the busiest courts and they were filled with cases of children who had thrown tantrums, damaged their own bedroom furniture or kicked off with care home staff who had refused them permission to make a phone call to their brother... Successive areas have all but ceased this archaic practice.”⁸⁹

This will explain, in part the encouraging reality that the proportion of children in homes who received a conviction, a final warning or a reprimand fell in consecutive years⁹⁰ from 17% in 2013, to 16% in 2014 and 15% in 2015.⁹¹

Of course, children in homes, and children in care generally, are still significantly more likely – by a factor of six - to be subject to criminal proceedings than other children. But a large proportion of such proceedings, possibly most, will relate to behaviour in the community, rather than the home, and some of it for offending which took place before the child entered care. The six fold difference in involvement in criminal proceedings might appear, at first, to be astonishing. But it should not surprise us. To compare children in homes to the wider population of children, most of whom have experienced the love and stability of parental care, is to misunderstand the plight of children living in care. We should expect that children neglected, abused and damaged, as so many have been, to comprise a relatively

⁸⁹ Response to Lord Laming’s review of the treatment by the Criminal Justice System of Children in Care

⁹⁰ The figures reflect the placement of the child as at 31 March each year, however the offence could have taken place at any placement the child has lived in over the last 12 months, not necessarily in the children's home

⁹¹ DfE Data annex

large proportion of children subject to criminal proceedings. This is particularly the case in recent years during which we have seen a most welcome fall in child arrests which fell from 332,800 in 2004 to 112,709 in 2013/14, a fall of 60%.⁹² The near inevitable rump of children in care who are arrested now form part of a much smaller number of child arrests.

None of this is to suggest that more cannot be done, not least in seeking to reduce the onerous burden placed on the police in responding to calls from children's homes. That burden is significant, but a relatively small part of that burden relates to alleged criminal behaviour. I was referred a number of times to a fact, widely reported in the media at the time of the publication of the Howard League Report, that one police service (Sussex) and between September 2014 and August 2015, had 3,500 call outs to the 47 children's homes in that county. But when I probed these figures, I learned that only about 9% of these calls were about alleged criminality.⁹³ That's one call from each home reporting a crime about every two months, not quite the epidemic the headline suggests.

Custody

For the same reason – when we have seen a huge and welcome fall in the number of children in custody, we should expect the neglected and abused children who have to be taken into care – often after enduring that neglect and abuse for many years – to be significantly represented in the custodial population. In the wake of the Prison Reform Trust Report, the Guardian, the BBC, The Times and others all repeated PRT's assertion that half the children in custody in England have experienced care. As PRT acknowledge, data to inform this issue is pretty thin, But Kennedy's research⁹⁴ in 2013, suggested that the proportion was a third rather than a half. A snapshot of the population of children in custody at the end of May corresponds with Kennedy's conclusion. With the help of the National Offender Management Service and G4S I was able to probe the background of the vast majority of children in custody at the end of May, and I found that just 28% had been in care immediately before their incarceration.

But whether the proportion of children we incarcerate and who have experienced care is a third, a half, or greater, this does not mean that care somehow propelled those children to custody. My own experience of children in young offender institutions and secure training centres is that while many have experienced care, the time spent in care was often a relatively small part of their troubled and often neglected childhoods.

⁹² Speech by the Children's Commissioner to the National Police Chiefs Council. January 2016.

⁹³ The majority of calls were about the safety and welfare of children who had left or were leaving the home. I deal with this issue later in this chapter.

⁹⁴ 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/Youth Justice Board.

The limitations in staff ability to deal with issues without involving the police

While I believe the unnecessary criminalisation of children in homes is exaggerated by The Howard League and The Prison Reform Trust, there is scope to reduce formal police involvement, and a number of local authorities have had notable success in doing so in recent years. When the police are involved needlessly, my sense from talking to staff and to children in care and care leavers, is that lack of staff confidence about the legitimacy of their intervening to manage behaviour is partly to blame. Managers and staff frequently expressed uncertainty to me about the legality or the propriety of their intervening with a child in the way, for example, a parent might. Julie Shaw observed this uncertainty. She found:

“A frequently voiced concern was that residential workers were prevented from exercising ‘appropriate’ control and discipline, due to a fear of being made the subject of allegations of abuse by the young people, which could potentially result in the loss of their job and criminal conviction.”⁹⁵

A children’s home manager told her:

“We clearly do not want to get people involved in the criminal justice system if at all possible. Then we also have to balance that with the limited consequences that we can use at the (home) which in terms of sanctions, are limited, really ... I guess we’re not able to do certain things that perhaps an ordinary parent would be able to do.”⁹⁶

Similarly, the Children’s Commissioner wrote to me and said:

“Ensuring that staff play an important parenting role is important. However, there also appears to be ways in which staff are held back by perceived limits on their ability to intervene on occasions as parents would. It is clear that some residential staff believe that they are unable to intervene to counter some difficult behaviour... Ensuring that staff are able to work in partnership with the police to positively deal with difficult behaviour will be essential if we are to offer children with particularly challenging behaviour the guidance and support of a parent.”

It is frequently extremely wearing for staff to manage children whose behaviour may be perpetually challenging and where, sometimes, the same children are well aware of their rights and the limited ability of staff to control them. A number of current and past residential care staff – and some children – told me that some homes struggled to impose a structure in which children were treated kindly, compassionately, but also, when appropriate, within necessary boundaries. One experienced worker told me:

⁹⁵ Policy, Practice and Perceptions: Exploring the Criminalisation of Children’s Home Residents in England. Youth Justice 2015

⁹⁶ Ibid

“Discipline needs to be tightened up because I found it was very lax in the establishments I worked in as a residential social worker. It appalled me (and I really could do nothing much about it) because it was a long accepted practice that children came and went as they pleased. This is not ‘good parenting’. All those responsible for the care of children do need to be child-centred but this does not mean allowing behaviour that would not be tolerated in an ‘ordinary’ home, with no consequences for their actions. For children to feel safe they have to learn impulse control and self-regulation and this is hard for children who have experienced adversity.”

A number of staff told me that the balance of children’s rights had moved too far and children were sometimes over indulged. A large and articulate group of children living in residential care in the north-west were also critical of what they saw as over indulgence, and told me it was a poor preparation for adulthood.

In *Community Care* recently a residential care worker writing under the pseudonym David Jones expressed a similar view⁹⁷:

“We’re setting them up to fail... some children in care do quickly become accustomed to novel comforts: weekly pocket money; incentive money earned for certain tasks undertaken (keeping their bedroom tidy; washing their dinner plate); and a generous clothes budget. Of course young people in care are rightly entitled to these things, but for those who leave the home with few or no prospects in terms of education, training or employment, the reality of the outside world proves a stark contrast... I’ve also noticed that some kids in care develop a sense of entitlement, whether it be demanding more new clothes or criticising ‘basic’ meals such as beans on toast.”

I’m very clear that Mr Jones is mistaken and that it’s entirely appropriate for children in residential care to receive some of the treats that other more fortunate children enjoy. The key is that they are taught to value such things. Paul Vella a children’s home manager in the north-west captures this brilliantly:

“An intrinsic part of the role of care worker is to help the children see that despite their difficulties they too deserve care and nice things ‘like other children’. If this means wearing expensive trainers, that’s fine. If this means having a smart phone, that’s fine too, but we don’t keep buying our own children new phones if they break theirs - we make them save for another one, or save enough to repair the broken one, or go without. This is the reality of the world. This is what a caring parent does. By doing this, the child gets a sense of agency. They develop the link between personal sacrifice, hard work and having material goods. Most importantly they see that like

⁹⁷ By spending too much on shoes and phones, are we setting up children in care to fail? David Jones, *Community Care* February 2 2016

their peers they too are worthy of nice things, but that nice things come with a price and a set of rules on how to acquire them.”⁹⁸

But he recognises that:

“From my own experience some staff are scared of the children they are supposed to care for. Others feel that their job is to give material objects to these children in a misguided view that the best thing to compensate for the child’s deprivations to date is to indulge them with ‘things’ and none of the other stuff that will adequately prepare them for the adult world; empathy, nurturing, boundaries, consistency, problem solving skills, reflection. In effect they are replicating the neglect that the child experienced in the family - only this time the taxpayer is footing the bill. That’s because the other ‘stuff’ – emotional support, unconditional love and understanding, is far more difficult to give, far less tangible, and to fully do it you have to leave yourself open to being emotionally hurt, rejected, ridiculed, and embarrassed.”

Getting this balance right between care and generosity on the one hand and setting boundaries which will help a child cope with the – sometimes harsh - realities of later life is something which the best homes, inevitably led by confident managers, all have. In other homes, perhaps where staff turnover including manager turnover is high, that confidence may be lacking. Sometimes the staff may not have the emotional resilience that is necessary and, as Mel Wood, a vastly experienced practitioner and manager in residential care told me they can become inured to poor behaviour – including routinely being told to Fuck Off – and are nervous about showing disapproval. As he put it, staff need to be given the confidence to challenge and to say No. “A child who thinks he can do just what he wants is an unhappy child”⁹⁹

When staff in children’s homes lack confidence, when they are suspicious that in seeking to address poor child behaviour they might not be supported by their manager or by more senior staff, or when they believe Ofsted might be critical of their intervention, they are more likely to involve the police. As Jim Rose, a non-executive director of the Fostering Foundation and another very experienced practitioner and manager told me: “When staff feel disempowered as they often do, that’s when the police are unnecessarily involved.”¹⁰⁰

Restraint

The issue of confidence is particularly important when considering whether or not the use of a restraint on a child might be justified.

⁹⁸ Private communication after my visit to his home. During that visit and unprompted, one of the children who lived there told me, approvingly, that the staff there cared enough about her sometimes to say ‘No’

⁹⁹ Private interview

¹⁰⁰ Private interview

Department for Education guidance on the use of restraint is very clear:

“Restraint in relation to a child is only permitted for the purpose of preventing injury to any person (including the child); serious damage to the property of any person (including the child); or for a child who is accommodated in a secure children’s home from absconding from the home. Restraint in relation to a child must be necessary and proportionate.”¹⁰¹

The Department for Education guide to the regulations offers more detailed guidance:

“When restraint involves the use of force, the force used must not be more than is necessary and should be applied in a way that is proportionate i.e. the minimum amount of force necessary to avert injury or serious damage to property for the shortest possible time. Restraint that deliberately inflicts pain cannot be proportionate and should never be used on children in children’s homes... Any use of restraint carries risks. These include causing physical injury, psychological trauma or emotional disturbance. When considering whether restraint is warranted, staff in children’s homes need to take into account: the age and understanding of the child; the size of the child; the relevance of any disability, health problem or medication to the behaviour in question and the action that might be taken as a result; the relative risks of not intervening; the child’s previously sought views on strategies that they considered might de-escalate or calm a situation, if appropriate; the method of restraint which would be appropriate in the specific circumstances; and the impact of the restraint on the carer’s future relationship with the child. Staff need to demonstrate that they fully

understand the risks associated with any restraint technique used in the home.”¹⁰²

The guidance goes on to address what must happen after a restraint has been used:

“Any child who has been restrained should be given the opportunity express their feelings about their experience of the restraint as soon as is practicable, ideally within 24 hours of the restraint incident, taking the age of the child and the circumstances of the restraint into account. In some cases children may need longer to work through their feelings, so a record that the child has talked about their feelings should be made no longer than 5 days after the incident of restraint. Children should be encouraged to add their views and comments to the record of restraint. Children should be offered the opportunity to access advocacy support to help them with this.”¹⁰³

¹⁰¹ Extract from statutory instrument 541 of 2015: The Children’s Homes (England) Regulations

¹⁰² Guide to the Children’s Homes Regulations including the Quality Standards, Department for Education, April 2015

¹⁰³ Ibid

I don't disagree with any of that. It is entirely appropriate that restraint should be used extremely sparingly and confident and well-led staff will be skilled in the use of de-escalation techniques to avoid the need to resort to its use. But there is no denying that the guidance will sometimes discourage staff from intervening in cases of indiscipline, preferring to call the police instead.

Children leaving homes at night

And there is a great deal of doubt about the propriety of using restraint to prevent children from leaving homes when, in doing so, they might be putting themselves in danger. The Departmental guidance says:

“There may be circumstances where a child can be prevented from leaving a home – for example a child who is putting themselves at risk of injury by leaving the home to carry out gang related activities, use drugs or to meet someone who is sexually exploiting them or intends to do so. Any such measure of restraint must be proportionate and in place for no longer than is necessary to manage the immediate risk.”¹⁰⁴

St Christopher's Fellowship, a charity which has been involved in residential care since 1870, told me:

“St Christopher's experience, as that of many others in the sector, is that there is considerable uncertainty about the application of this regulation... The consequence is that many children's homes managers feel they are powerless to prevent a child from leaving the home, despite knowing that they are likely to be putting themselves at risk”

The magnitude of this problem is demonstrated by the fact that of the notorious 3,500 police calls made by children's homes in Sussex, although only 9% were about crime, 75% were about the welfare and safety of children leaving the home. If we are to offer children in residential care the same protection that we as parents routinely offer our own children, we would be unlikely to let them leave a home late at night or at other times when they might put themselves in danger. Caring parents do not think only in terms of the *immediate risk* to which the DfE guidance refers, they think in terms of general risk and prevention to keep their children safe.

No child in care should be exposed to any more danger than that to which we would expose our own children. The Department for Education, in consultation with Ofsted, need to reconsider their guidance – taking account of recent Court judgements – to ensure that staff are able to keep children safe by preventing them leaving homes at time of danger, either by locking doors or using restraint, and that they can be confident in the legality of their doing so.

¹⁰⁴ Ibid

Restorative Justice

While I believe that most homes are slow formally to involve the police in responding to poor behaviour sometimes, for example when a child has been seriously violent toward another child or member of staff, managers will conclude that they have little choice other than to seek police help. The key then must be to ensure that, unless the child's behaviour has been so serious that no course other than prosecution or other formal action is appropriate, that the police deal with the behaviour informally.

A number of children's homes, and with the support of the police, successfully use restorative justice approaches to deal with unacceptable behaviour. In a children's home context it can involve a range of methods, including face-to-face meetings and group work with a focus on managing behaviour. According to the Restorative Justice Council, "the evidence demonstrates that restorative practice can have a significant effect on reducing the criminalisation of children in care."¹⁰⁵ This claim is underpinned by a number of small-scale evaluations of the effect of restorative practice in children's homes in English local authorities. Whilst caution must be taken not to generalise from small-scale studies – the findings have been encouraging and its wider use is justified.

I have been impressed with a protocol between ten local authorities and four police services in the south-east which recognises the potential of restorative approaches:

"The protocol aims to reduce the prosecution of children in care wherever possible, by encouraging the use of restorative justice (RJ) approaches. RJ is a process whereby the victim has an opportunity to be heard and to state the impact of the behaviour and the offender has the opportunity to take responsibility for his or her actions."¹⁰⁶

The protocol goes on to say:

"It will be an expectation of all local authorities that staff and carers of children in care will strive to manage challenging behaviour at the placement address by way of internal resolution without involvement of the police wherever possible. Where this is not appropriate such as where there is concern about immediate safety, and where police become involved, the police should consider use of discretionary powers to apply an informal resolution response (such as community resolution). In circumstances where such a response is inadequate in the face of the seriousness of the offence then police should routinely consider potential for diversion from

¹⁰⁵ Schofield G, Ward E, Biggart L, Scaife V, Dodsworth J, Larsson B, Haynes A and Stone N (2012) *Looked After Children and Offending: Reducing risk and promoting resilience* Norwich: University of East Anglia

¹⁰⁶ South-east protocol to reduce offending and criminalisation of children in care (Hampshire, Kent, Surrey and Sussex Police Services)

criminalisation/prosecution.”¹⁰⁷

It is important to be clear that the protocol is very clear about the requirement to prosecute when the offending is serious or when a child declines to make an admission about his or her behaviour. But every reasonable effort is made to deal informally with poor behaviour.

When the Education Select Committee urged the government to address this issue, the government was not persuaded of the need for national prescription. That indeed may be unnecessary. But, as an alternative, the Department for Education and the Home Office should urge police services and local authorities to replicate the south-east protocol, or to agree similar arrangements. And, if they are not already doing so, to apply a restorative justice approach in dealing with children’s unacceptable behaviour.

Finally, there is the issue of crime recording. Although I am satisfied that the extent to which children are unnecessarily drawn into the criminal justice system is exaggerated, there may be instances where the police unnecessarily record, as a crime, a minor incident in a home. This is because the Home Office counting rules – quite properly designed so that crime is not under recorded - allow the police very little flexibility. This is in contrast to schools where such discretion exists and is frequently used. I recommend that the Home Office should allow police forces similar discretion not to record all low-level crime by children living in homes. I believe that Chief Constables would welcome this.

Recommendations:

Recommendation 15: The Department for Education and the Home Office should urge police services and local authorities to replicate the south-east protocol, or to agree similar arrangements. And, where they are not already doing so, to apply a restorative justice approach in dealing with children’s unacceptable behaviour.

Recommendation 16: The Department for Education, in consultation with Ofsted, needs to reconsider their guidance – taking account of recent Court judgements – to ensure that staff are able to keep children safe by preventing them leaving homes at time of danger, either by locking doors or using restraint, and that they can be confident in the legality of their doing so.

Recommendation 17: The Home Office counting rules – quite properly designed so that crime is not under recorded - allow the police very little flexibility in dealing with crimes committed in homes. This is in contrast to schools where police discretion exists and is frequently used. I recommend that the Home Office should allow police forces similar discretion not to record all low-level crime by children living in homes.

¹⁰⁷ Ibid

4. Ofsted

Many of those who gave evidence expressed frustration about Ofsted and in private meetings they were often frank in their views. Sometimes Ofsted was painted as some sort of ogre strangling the ability of homes to excel through over prescription and by making critical assessments on the basis of minor inadequacies.

Ofsted is not a perfect organisation and does not claim to be. There are inevitable issues around subjectivity of judgements and sometimes that is exacerbated by a failure to engage in dialogue about the validity of a conclusion (something which, in my experience, the National Audit Office do rather well). If dialogue were to happen more often, then confidence in Ofsted would increase and alongside that, so too would the quality of provision. Contrast the different experiences of managers interviewed by the National Children's Bureau in their recent examination of the implementation of the new Quality Standards¹⁰⁸: One manager told the researchers:

"A lot of the time we go to Ofsted and ask questions, and they'll go, 'Refer to the Quality Standards!' when actually we're coming to them because we don't understand how we can evidence something." I'm just asking him to verify what I'm doing. Rather than just wait until an inspection and say, 'Nah, that's not good enough'."

While another reported:

"He was just very honest.... He said, 'I know you've had a really busy, difficult time' - and he does see it as a process, it's not about trying to trip you up... If you want advice he'll give you that advice. He will say, 'You can ring me at any time, if you're wondering about something.' I'm sure that he will address it. He does still obviously come in, inspects you on Monday, but doesn't see that as the end of the process."

The NCB study confirmed that where inspectors entered into a positive and open dialogue, managers tended to report feeling more confident about their ability to meet the Standards. I urge Ofsted to ensure that such dialogue is the norm and that inspector performance assessment takes account of this requirement.

That said, and although there are occasional and probably inevitable inconsistencies between inspectors I don't think they're as frequent or as extreme as is sometimes suggested. I heard a lot of criticism of Ofsted which was little more than anecdotal or, when more substantial, was somewhat historic. Inaccurate beliefs about Ofsted polices abound, including suggestions that there are quotas for good or outstanding judgements or that Ofsted prefer very small homes. I was pleased to see that shortly after a discussion with Ofsted about some of these beliefs, that they dismissed them in the latest in a series of myth busters. What is now important is that Ofsted

¹⁰⁸ Quality Standards in Children's Homes Early experiences of implementing the new regulations Jen Gibb, Rebekah Ryder and Clarissa White, National Children's Bureau (2016)

ensure that all inspectors adhere to the lines taken in the myth busters. There are inspectors with personal and un-evidenced views about things like the size of homes, and I saw an exchange demonstrating that one inspector had personal quotas for the awarding of outstanding markings.

But overall I think Ofsted perform a difficult role rather well and many of the more considered conversations I had with providers noted that Ofsted had become, in recent years, more flexible and more willing to listen and to understand the challenges facing staff in children's homes. One very senior manager told me that he had observed Ofsted achieving a better balance between being an enforcement agency and being an agent of change and support. And a number of witnesses welcomed that a significant proportion of inspectors had been replaced in recent years with better-experienced and more able replacements. In the words of one experienced practitioner and manager in residential care, Ofsted have made real achievements:

“Bad, unethical, negligent, careless and lazy homes have closed. Those that remain are more professional, more closely regulated, more transparent and more efficient.”¹⁰⁹

I was very impressed with senior managers in Ofsted who responded constructively in our discussions and gave me the opportunity to speak to and discuss issues around residential care with all Ofsted staff involved in England inspections. And, crucially, I saw evidence of Ofsted moving quickly and decisively to close one home, which was patently not good enough. Although Ofsted has formally closed only two homes in the last two years they have prompted the closure of a significantly larger number. In the last two years 86 homes resigned their registration following critical inspection. Ofsted believe half of these were as a direct consequence of their inspection judgement.¹¹⁰

Reducing the frequency of inspections for good and outstanding homes

Children's homes might further improve if, perversely, Ofsted reduced the inspection burden by inspecting good and outstanding homes less frequently. Schools are inspected once every three years. A children's home gets six inspections in that period. And while I do not believe that the nature of inspection is so prescriptive that it extinguishes the scope for innovation, I think the frequency of inspection might do that. As managers told me, when inspections take place so frequently, there is a disincentive to try new things in case successful and established routines are disrupted. I'm confident that if inspections of good and outstanding homes became annual events, that would not threaten the safety of children, and it might help homes to think about doing things differently and more effectively. I urge Ofsted to introduce arrangements which will mean that, save in exceptional circumstances, homes achieving a good or outstanding rating will subsequently be inspected only annually.

¹⁰⁹ Private exchange

¹¹⁰ Supplementary evidence from Ofsted following interviews with senior staff

Replacing one and two word Ofsted verdicts

There is a great frustration caused by the awarding of one or two word conclusions about the performance of a home. As one excellent Charity Chief Executive put it to me: "Please could we remove the simplistic and indefensible 4-point grading system and replace it with narrative reports that Commissioners can read and assess for themselves against the needs of their children?"¹¹¹ My view is that a brief verdict, providing a summary of the overall judgement on a home is helpful. But the current one or two word verdict relegates the importance of a sometimes very good and nuanced narrative. I understand that abandoning the familiar judgements of *outstanding*, *good*, *requires improvement* or *inadequate* would have implications for school inspections. But I am quite certain that these brief judgements are not helpful to children's homes or to commissioners and do a disservice to some thoughtful reporting. I urge the new Her Majesty's Chief Inspector of Education, Children's Services and Skills, when appointed, to review this practice.

Clarify that a *Requires Improvement* verdict does not imply inadequacy

Whether or not these one or two word verdicts might be replaced there is an immediate need to clarify the meaning of the verdict *requires improvement*, which replaced the previous *adequate* verdict. When Ofsted consulted about abandoning the *adequate* conclusion in 2013, some respondents pointed out the possibility that the *requires improvement* judgement would be viewed as being more critical than the *adequate* grading and, as a consequence, commissioners might not place children in such homes.

In their response to the consultation, Ofsted dismissed that possibility:

"There are mixed views about the introduction of 'requires improvement'. While some respondents thought this was helpful, others were less convinced. Of particular concern to many respondents was the commissioning practice of local authorities and a view that, with the introduction of 'requires improvement', the view of commissioners would be that this is not good enough and therefore the local authority should not use the provider. We do not agree that the change from 'adequate' to 'requires improvement' will affect commissioning practice where, previously, 'adequate' provision has been used."¹¹²

Ofsted confirmed to me during my discussions that the *requires improvement* conclusion means that a home requires improvement to become good. But it is an adequate home. Yet Commissioners have responded to the *requires improvement* verdict exactly in the way some respondents feared. A significant number of local authorities and consortia now have a policy of not placing a child in a home which *requires improvement*. And Ofsted encourages that practice. I found examples of Ofsted inspections of local authorities where they report positively on policies not to

¹¹¹ Private conversation

¹¹² Ofsted: Children's Home Inspection Framework – a report on the responses to consultation

place children in homes requiring improvement. Examples are numerous including this from the recent report on Cheshire East:

“Placements are good for many children, meet their needs and have a positive impact on them. The local authority only places children in homes that are good or better and monitoring of these arrangements is robust.”¹¹³

Or this from the recent report on Warrington:

“Rigorous arrangements are in place to monitor the care of children and young people who are in external placements. No residential or foster care placements have been commissioned from independent agencies that have been judged to be less than good.”¹¹⁴

The reality is that a home which *requires improvement*, and exceptionally, even an *inadequate* home might be the best place for a particular child, in the same way that an outstanding home will not necessarily be the right place for every child. I am not suggesting that homes rated as *requiring improvement* should relax in the knowledge that their home is good enough. Indeed, I'd like to see a steady increase in the proportion of homes rated good or outstanding (I believe that implementing the recommendations in this report will help achieve that). But we don't cease to place children in schools *requiring improvement* and commissioners should abandon blanket policies that rule out placements in homes which, essentially, are adequate. And Ofsted should no longer encourage authorities only to place children in good or outstanding homes.

From a provider's point of view, the consequences of perhaps slipping, however briefly, from an Ofsted judgement of *good* to one of *requires improvement* is potentially dire. That is why some homes put so much energy into planning for Ofsted visits to ensure this cannot happen. As a very impressive Charity Chief Executive told me:

“We all have to invest huge resources in preparing [for Ofsted] in addition to looking after, educating and treating the children. Ofsted has deplored such preparation and inauthenticity, but the alternative is that one may go out of business on the basis of minor lapses of bureaucracy or disagreements about what is appropriate or inappropriate care. We work with some of the highest risk children in the UK, and yet in our risk register and published Annual Report, we have no option but to judge the highest risk to the sustainability of this century-old charity to be Ofsted.”¹¹⁵

The fear of a *requires improvement* grading can also militate against the neediest but most challenging children finding a place in the best homes. It is very clear to me that fear of a loss of a good or outstanding verdict discourages some homes from accepting some very challenging children, even when they might be confident they

¹¹³ Ofsted, September 2015

¹¹⁴ Ofsted, May 2015

¹¹⁵ Private communication

can care for them successfully. A number of providers acknowledged this, including two charities with the highest reputations for the quality of their care. I believe the frequency of homes turning away challenging children would reduce if obtaining a verdict of *requires improvement* was treated more proportionately. This is not to say that the ambition that every home be good or outstanding is misplaced. I share that ambition. But a home that *requires improvement*, is not an *inadequate* home. I urge Ofsted to clarify – very loudly – the reality that a *requires improvement* verdict means that a home is an adequate home.

The manager's veto on a placement

It is entirely appropriate that the home manager has a key say in the decision whether or not to accept a particular child. They need to be confident that the home can provide the right care and that there will not be unduly troubling consequences for children already living there. But I am troubled by the extent to which a considered decision by the manager's manager - who may be more experienced and better qualified - to require a manager to take a child can be second guessed by Ofsted.

I was surprised to hear from a number of managers that they are encouraged to inform Ofsted whenever they are pressed to take a child about whom they have reservations. It is all too easy to paint a portrait of a reckless Director imposing a child on a home without giving that decision any thought. As the National Youth Advocacy Service (NYAS) told me:

“Registered managers will often come under pressure from their organisation to accept young people irrespective of the impact a young person may have on the home. This can be true of local authority homes as well as the independent sector.”

I have seen instances where a manager has been persuaded to take a child despite their initial reluctance to do so. But I have not seen, and do not believe, that senior managers whether in local authorities or in the private or voluntary sector, are likely to insist a child is placed “irrespective of the impact a young person may have on the home” (not least because of the ever present fears of what Ofsted might say). In one local authority home I visited, with half its beds empty but with a full staff complement, the manager's manager had been harshly criticised by Ofsted for taking what he believed – and I believed – was a carefully considered and risk assessed decision to place a child in a home close to his family and friends.

Sometimes, Children's Services Directors have to make difficult decisions, balancing the needs of one child who may desperately need a placement, with the interests of those children already living in a home. Frequently, there will not be an ideal placement for a particular child. Sometimes the choice of placement will be the least worst option of those available: that is the nature of placements for this difficult population. As one particularly impressive senior manager, told me:

“The current system over empowers managers to refuse young people on what can be at times, very flaky evidence of a mismatch. Over years of experience I have often been surprised where on paper a placement shouldn’t work but does and just the opposite... I believe this is much more of an art as opposed to the science we sometime try to make it.”

Ofsted need to be more sympathetic to that. I urge them to be more alive to the fact that a decision to place a child against the home manager’s will, while best avoided, may sometimes be the right decision and that decision should not be easily second guessed.

Simultaneously, providers may want to consider whether it is appropriate for the manager necessarily to own what is essentially a veto on a placement. The Children’s Homes Regulations¹¹⁶ state that the *registered person* must ensure that children are only admitted to a home if their needs are within the range catered for in the statement of purpose. In most instances, the manager is identified as the *registered person*. But the regulations allow either the manager or the provider to fulfil that role.

Restraint

As I have made clear in chapter three, restraint on children should be only used when simply nothing else will do, and when a child is in danger of harming themselves, other children or adults, or is causing serious damage to property. That is the law and Ofsted’s inspection criteria reflect that, saying that restraint must be “used only in strict accordance with the legislative framework to protect the child or young person and those around them.”¹¹⁷

But the inspection framework goes on to say that the use of any restraint must reduce or cease over time. I agree that must always be the ambition. But some children, for all sorts of reasons, including the consequences of the previous neglect and abuse they have suffered, and sometimes because of mental illness, will not always respond. Some children will continually harm themselves. Ofsted should certainly encourage the reduced use of restraint, but seek to understand why, for some children, that may not be possible, even over long periods. One senior and impressive manager told me:

“Children who have had substantially damaged and fragmented attachments may take two years receiving care, warmth, love and support to break down the barriers they have so carefully built over many years. It is inevitable over this period that behaviours will oscillate, be extreme and be testing. There is no quick fix.”

It is important that Ofsted do not demand evidence of such quick fixes. One manager of an excellent home, rated outstanding by Ofsted, told me that because,

¹¹⁶ Children’s Homes regulations 2015, para 14.2

¹¹⁷ Paragraph 59 from the Ofsted inspection framework

invariably, inspectors wanted to see a reduction in the use of restraint, it had been necessary for them to end the placement of a vulnerable and very young child whom they believed they could help over time. I urge Ofsted to re-visit their inspection framework and acknowledge that, exceptionally; the use of restraint on particularly challenging children might not reduce over time.

Regulation 44 Visits

The Children's Homes Regulations require homes to ensure that an independent visitor attends the children's home at least once each month: Independent visitors must be allowed to speak to children privately, and to inspect the home:

"The independent person must produce a report about a visit... which sets out, in particular, the independent person's opinion as to whether— children are effectively safeguarded; and the conduct of the home promotes children's well-being."¹¹⁸

I think independent visitors can provide genuine assurance about the care of children in homes. But, however conscientious and effective they might be, they lack visible independence because they are appointed by and are paid by the home they are responsible for visiting. I recommend that the Department for Education discuss with Ofsted how these arrangements might be improved, including the scope for requiring Ofsted to approve the appointment of Regulation 44 visitors or to require their replacement.

Recommendations:

Recommendation 18: I urge Ofsted to introduce arrangements which will mean that, save in exceptional circumstances, homes achieving a good or outstanding rating will be inspected only once a year

Recommendation 19: I urge Ofsted to ensure that dialogue between homes and inspectors is the norm before, during and after inspection and that inspector performance assessment takes account of this requirement.

Recommendation 20: I urge the new Her Majesty's Chief Inspector of Education, Children's Services and Skills to review the practice of using one or two word judgements when inspecting children's homes. They can do a disservice to some thoughtful reporting.

Recommendation 21: Commissioners should abandon blanket policies that rule out placements in homes which, essentially, are satisfactory. And Ofsted should no longer encourage authorities only to place children in good or outstanding homes.

Recommendation 22: I urge Ofsted to clarify – very loudly – the reality that a *requires improvement* verdict means that a home is an adequate home.

¹¹⁸ The Children's Homes (England) Regulations 2015, para 44

Recommendation 23: I urge Ofsted to be more alive to the fact that a decision to place a child against the home manager's will, while best avoided, may sometimes be the right decision. They should be cautious about second-guessing such decisions.

Recommendation 24: Providers may want to consider whether it is appropriate for the manager necessarily to own what is essentially a veto on a placement. The Children's Homes Regulations¹¹⁹ state that the *registered person* must ensure that children are only admitted to a home if their needs are within the range catered for in the statement of purpose. In most instances, the manager is identified as the *registered person*. But the regulations allow either the manager or the provider to fulfil that role.

Recommendation 25: I urge Ofsted to re-visit their inspection framework and acknowledge that, exceptionally; the use of restraint on particularly challenging children might not reduce over time.

Recommendation 26: I recommend that the Department for Education discuss with Ofsted how arrangements for Regulation 44 visitors might be improved, including whether Ofsted should have the power to approve the appointment and/or require the replacement of such visitors.

¹¹⁹ Children's Homes regulations 2015, para 14.2

5. Staff qualifications, pay and recruitment

I heard a great deal about the challenges of offering high quality residential care when staff were frequently poorly paid and poorly qualified. The Expert Group on the reform of children's residential care¹²⁰ reported in 2012 that the workforce had both insufficient qualifications and insufficient specialist knowledge and skills; worked ineffectively with other professionals; had inadequate career pathways; and was highly fragmented. They called for a workforce that was respected by the public and working in residential care being seen as a positive career choice.

My view is that it is very important properly to recognise the vital contribution made by the children's home workforce in the care and management of the most challenging and damaged population of children in the country. They deserve enormous recognition for the work they do. But that is less likely to be obtained when their contribution is sometimes dismissed, not because of what they achieve, but because of the modesty of their qualifications. Their achievements are, at the very least, impressive. Ofsted find only nine percent of homes to be inadequate, and 75% are found to be good or outstanding. I'd like to see the proportion of good and outstanding homes increase. But the current proportion does not sustain the view that the workforce we have is inadequate: quite the reverse.

We must have a competent and confident workforce, but I'm not at all sure that necessarily means a highly qualified workforce. Although the intention in Scotland is to require staff in children's homes to be graduates (from 2018)¹²¹ I urge Ministers not to follow that example in England. I'm not aware of evidence which suggests that an entirely graduate workforce would further improve the quality of homes. And, as many managers reminded me, and as I have seen for myself (both in England and Scotland), some of the ablest individuals in this sector are not, and are unlikely to become, graduates. Some began their careers in homes without any formal qualifications at all (for that reason I do not share the view of the Expert Group that the level three diploma should be an entry requirement for staff beginning their careers).

The best staff, irrespective of their qualifications, develop a vital ability to make and maintain good relationships with troubled and challenging children. As one articulate care leaver, who had thrived in residential care after 28 foster placements, told me:

"I loved the different array of staff. It forms its own family. I would disagree that staff should be graduates. This is not necessary. Staff in residential care simply need to be caring and this does not require a degree. They need some knowledge and training but a mixed skill set worked. The home formed its

¹²⁰ Reform of Children's Residential Care, report of the expert group, presented to DfE Ministers, December 2012

¹²¹ Response to the report of the National Residential Child Care Initiative: Higher Aspirations, Brighter Futures, Scottish Government, 2009

own family. There would be staff I would talk to about my problems, staff I would talk with if I wanted to laugh, and staff I would talk to if I wanted advice on clothes or make up. It worked wonderfully for me.”

The priority therefore should be to recruit staff with the right qualities, temperament and resilience and then help them to develop and, as part of that development, to gain an understanding of the type of children they care for. That understanding can come, in part, through obtaining the mandatory level three diploma. But to work effectively in children’s homes, staff do not need to be graduates or to aspire to graduate status.

The level 3 Diploma for residential childcare

Since January 2015, it has been a requirement for staff working in children’s homes in England to register, and within two years obtain, this qualification. The 2015 DfE census of the children’s home workforce¹²² found that over nine in ten staff (excluding registered managers) either held a Level 3 qualification, or were working towards the diploma. There are no formal entry requirements and no requirement for specific prior learning other than a requirement for candidates to be working or volunteering in a residential childcare setting. One academic provider¹²³ estimates that obtaining the qualification will require 466 learning hours, or about 4 hours work a week over two years. The curriculum includes the development of children in residential care; safeguarding; understanding children who have experienced harm and abuse; effective communication; risk management; supporting positive relationships for children and promoting their well being; and recognising signs of sexual exploitation. As a curriculum it is indisputably relevant and I heard little criticism of the course content.

The NCB and TNS researchers¹²⁴ found that most staff working toward the level three diploma attended face-to-face group tutor sessions at local colleges. That was seen as valuable, but in those cases where the taught element was delivered online, students were less satisfied. Most staff began the course after the end of their six-month probationary period and completed the diploma within 12 to 18 months. Employers generally met costs. The research found that the views of those who completed the course varied widely and there were a substantial number of negative responses. But there were also some very positive views. One individual told the researchers:

“The individual courses were all catered to what I do... They made it easier for me to understand, especially the attachment one that was absolutely fantastic. It made me get it, like, oh I know why he’s doing that now, whereas before I just saw the behaviour.”

¹²² DfE (2015) A census of the children’s home workforce

¹²³ Oxford Cambridge RSA (OCR)

¹²⁴ Training and developing staff in children’s homes, NCB Research Centre and TNS BMRB, Department for Education 2015

Overall, staff told the researchers that the diploma helped certify their status, enabling them to progress and become eligible for better pay and promotion. And managers found that the qualification helped professionalise the job, develop individuals and demonstrated that managers valued their staff and were committed to their development. One manager told the researchers:

“It does professionalise their job and it gives them a lot more credibility for what they do. And it also makes them considerably more employable in the care sector as well. So that’s great because it’s professionalising the actual role... People think it’s an unskilled job where people look after old people... or wipe bottoms for a living and it really isn’t the case at all. They’re incredibly professional and very caring people and they should be recognised for that.”¹²⁵

Some staff told me that the diploma did not stretch them enough and others said that it provided no more than a confirmation of their knowledge. Most staff told me, as they told the NCB TNS researchers, that they valued learning on the job more than learning through the diploma. But overall, I think the diploma has been a success. It provides an adequate baseline qualification and the mandatory requirement for all staff to obtain it offers important assurance about the minimum quality of the workforce. Many staff will need further training, particularly those working in therapeutic settings. And there are genuine concerns about the variability of delivery, particularly when students do not get the opportunities afforded by group study and discussion at a local college. The Department for Education should ensure that where the diploma is delivered primarily online, and without group tutoring, that standards are not compromised.

Continuing Professional Development

The level three and the level five qualifications provide good baseline qualifications for staff and managers. But the best homes will want further to develop their staff. During numerous discussions with those involved in managing homes and with academic observers, I was reminded frequently about the need for a consistency of approach from staff when dealing with children. Successful parents generally work this out for themselves, understanding the necessity of adopting a common approach to parenting, particularly in rewarding or censuring behaviour and setting boundaries. For staff in children’s homes that sort of consistency is harder to achieve. The composition of the team changes from time to time and new members of staff bring different experiences and attitudes. Because of that, I believe team training is vitally important, because it gives staff an opportunity to discuss shared challenges and approaches. As one example, I was impressed with what I heard about the RESuLT¹²⁶ training approach being developed by the National Implementation Service. As I finished this report I noted that an evaluation of this

¹²⁵ Training and developing staff in children’s homes, NCB Research Centre and TNS BMRB, Department for Education 2015, page 53

¹²⁶ Residential and Social Learning Theory.

approach by the Universities of Loughborough and Bristol was completed¹²⁷. That research has not yet been published but the broad conclusion was that the training had a very positive impact on participating homes. The researchers concluded that:

“This short-term evaluation indicates to us that the RESuLT training had good quality, relevant content. Training facilitators were skilled and well prepared. Staff liked the balance between its theoretical components of social learning theory, relational skill building, and neuroscience, which have practical application. Whole-group training was important: it helped bring staff teams together and contributed to a more coherent approach. Staff and most young people confirmed that the training was being used and it led to some improvements. On this basis, our conclusion is that RESuLT training strikes the right chord, is suitable for the modern residential sector and should be encouraged and expanded with continuing evaluation.”

Commissioners should look for evidence that providers offer continuing staff development, particularly through team-based training. And DfE should advise commissioners about the RESuLT programme and similar team approaches which are likely to prove effective in developing staff.

Managers

Managers are hugely important. For example, the NCB TNS researchers reported that rates of staff turnover related directly to how well a home was managed. The role of a manager is demanding. The challenge of running any operation for seven days a week, and for every week of the year, should not be underestimated. There is a substantial leadership challenge there. But, as I observed, the best managers are not just effective leaders but set a professional example to their workforce. They set the tone for the home. As one able and impressive Regulation 44 visitor told me: “So much depends on the home manager.”

Since January of last year, managers are required to obtain the Level 5 Diploma in Leadership and Management for Residential Childcare (England) and three quarters of managers now possess the diploma or the equivalent qualification it replaced.¹²⁸ The NCB TNS researchers found that there were generally positive views about this qualification, which was seen as substantially more demanding than the level three diploma. I think it provides a satisfactory baseline qualification for managers in the same way the level three diploma provides a satisfactory baseline for staff. But I believe that the complexity of the children living in children’s homes is such that, ideally, as well as having demonstrable leadership skills whether obtained through the level five diploma or in some other way, managers should ideally be graduate social workers.

Managers need often to represent the interests of a child in their care with other professionals. The best managers, in my experience, see themselves as advocates

¹²⁷ RESuLT Training evaluation report, Universities of Bristol and Loughborough, May 2016

¹²⁸ DfE (2015) A census of the children’s home workforce

for their children, with the children's permanent social workers, with schools and with families. They need to understand the role of a child's stay in a home in the wider context of their care journey and help plan for the child's future. They will be better able to do those things and their views will be more respected and taken greater account of, if they are established professionals. As David Berridge concluded in his 2011 report¹²⁹ "Homes providing higher levels of care tended to... have better qualified heads of homes."

Having professional social workers in charge might be particularly important in the management of homes in the voluntary or private sector where managerial support from other professional social workers might be absent. I do not propose that it be mandatory for managers to be graduate social workers – there will always emerge some exceptional unqualified members of staff who will make good managers. And I certainly do not suggest that the many successful, non-graduate managers currently in post be replaced. But I think that there should be an expectation that in the future, newly appointed managers should be qualified social workers. I believe we'll be able to be more confident about the standard of homes if more of them are under professional leadership. DfE should therefore consider how the expectation that homes should be managed by social workers can be established.

Giving more of our future social workers experience of residential care

Although some qualified social workers spend much of their careers in residential care, such a choice remains relatively unusual and this is despite the reality that the work provides a very intense experience of working with small numbers of children, and where more time is available to develop relationships than is likely to be the case in field social work. Exposing more social work students to residential care might persuade more of them to make it a career choice. But, even for those whose career intentions lie elsewhere, children's homes offer hugely valuable experience. The more that social workers and social work leaders of the future understand the potential of residential care, the less likely it will be treated as something only to be used as a last resort. I recommend that DfE move swiftly to ensure that as many social work students as possible spend some of their two hundred days placement experience in children's homes. I know that the Chief Social Worker for Children in England and the Association of Directors of Children's Services share that view and I believe that Universities, which sometimes struggle to find enough placements for student social workers, will welcome it too.

Pay and Recruitment

There appears to be little or no correlation between better-paid staff and the quality of children's homes. Local Authorities generally pay their staff more than private sector and voluntary sector employers, but as measured by Ofsted, there is little to distinguish between the quality of homes. The introduction of the new living wage

¹²⁹ Living in Children's Residential homes: David Berridge, Nina Biehal, and Lorna Henry. Department for Education 2011

will, in any case, reduce the extent of pay variability. But even with the living wage, pay, on its own, is not likely to attract staff of significant potential.

The NCB TNS researchers were pessimistic about recruitment arguing that:

“The low qualifications threshold and low pay... made it difficult to attract people with suitable experience, skills and insight. Other similarly low paid, entry level work, which required no previous qualifications commonly competed for the same candidates but were likely to be substantially easier and more compatible with having a home life and caring responsibilities.”¹³⁰

I think that is defeatist. Work in children’s homes is certainly demanding. But it’s also fascinating and rewarding and offers much more variation and stimulation than the relative drudge of retail work for example. Many staff in children’s homes wouldn’t do anything else. And the work can and does provide a step toward other careers. As the NCB TNS researchers discovered,: “Younger staff especially were said to be more likely to be ambitious and use children’s homes as work experience and a stepping stone to other careers, typically [in] social work, teaching or psychology.”¹³¹

The work certainly necessitates working unsocial hours – not least the necessity of sleeping in at night - and this will inevitably make life complicated for some with caring responsibilities. But on the other hand, and as some imaginative providers have discovered, introducing long shifts with work before and after the sleeping in period means that staff have to attend for as little as nine shifts to complete their monthly hours. That can be of positive benefit to those with caring responsibilities. I recommend that the Department identify and promulgate best practice in recruitment to children’s homes.

Finding staff with resilience and moral strength

Perhaps the greatest challenge in recruiting staff to this sensitive area of work is excluding from appointment those who will not be able to withstand the pressure of the work, and the challenges posed by children who will sometimes behave poorly. As one experienced, caring and now very senior commentator told me, staff are caring for children who sometimes are very hard to like. It is vital, as far as possible; to ensure that we recruit staff who are likely to resist any temptation to behave badly. This is not easy. As I discovered when working with challenging children in custody, and later in managing the Prison Service in England and Wales for seven years, it is not remotely easy to predict which individuals might behave unprofessionally. Awareness of the possibility that apparently reliable individuals might be corrupted is vital. As one Chief Executive told me

¹³⁰ Training and developing staff in children’s homes, NCB Research Centre and TNS BMRB, Department for Education 2015, page 57

¹³¹ Ibid

“In employing and supporting staff, we recruit very carefully, but we also assume that all adults may be at risk living alongside these children. This is a really difficult counter-cultural truth, that there are not two classes of people, one safe and one unsafe, one ‘normal’ and one ‘perverse’. Under the pressure... that these children present, it is safest to assume that in the wrong circumstances, at the wrong time, many people if not most, are capable of offending.”

This is a vital issue. The horrors of widespread abuse in residential care, which prompted the retreat of the voluntary sector, may have abated. But the capacity for individuals to behave poorly, to abuse children, has not disappeared. I recommend that in developing best practice guidance on recruitment, DfE include advice on how, as far as possible, employers can screen out those whose behaviour might fall short.

Recommendations:

Recommendation 27. Although the intention in Scotland is to require staff in children’s homes to be graduates (from 2018)¹³² I urge Ministers not to follow that example in England.

Recommendation 28. The Department for Education should ensure that where the diploma is delivered primarily online, and without group tutoring, that standards are not compromised.

Recommendation 29. Commissioners should look for evidence that providers offer continuing staff development, particularly through team-based training. And DfE should advise commissioners about the RESuLT programme and similar team approaches, which are likely to prove effective in developing staff.

Recommendation 30. DfE should therefore consider how the expectation that homes should be managed by social workers can be established.

Recommendation 31. I recommend that DfE move swiftly to ensure that as many social work students as possible spend some of their two hundred days placement experience in children’s homes.

Recommendation 32. I recommend that the Department identify and promulgate best practice in recruitment to children’s homes. That should include advice on how, as far as possible, employers can screen out those whose behaviour might fall short of the immense challenge that this work can present.

¹³² Response to the report of the National Residential Child Care Initiative: Higher Aspirations, Brighter Futures, Scottish Government, 2009

6. Staying Put rather than Staying Close?

At the age of eighteen, children become adults and are no longer legally 'in care' or 'looked after.' But in 2013 the government announced the introduction of arrangements to allow young adults, where they wished to do so, to remain in their foster home. As the guidance explained,¹³³ when a child reached their eighteenth birthday:

"Legislation relating to children placed with foster carers no longer applies. In circumstances where a young person remains with their former foster carers after their eighteenth birthday, the arrangement should therefore be deemed an 'age eighteen and older arrangement' or "Staying Put" arrangement."

Many greeted the announcement enthusiastically. The Chief Executive of the Who Cares Trust, Natasha Finlayson said:

"This is absolutely fantastic news for thousands of young people in foster care, giving them vital security and support at a crucial time in their lives. It represents the most significant reform to the support children in care are given in a generation."¹³⁴

Others were more critical, and rather than praising the introduction of *Staying Put* for the vast majority of children in care, were critical of the failure simultaneously to extend arrangements to the 9% in children's homes. In particular, the *Every Child Leaving Care Matters* alliance have protested long and enthusiastically, arguing that the reform to foster care arrangements was discriminatory and that it was "an injustice that children in residential care should not be afforded the same opportunity."

The government have not been unsympathetic. In my experience, current and recent Ministers at the Department for Education have been keenly aware of the unsatisfactory nature of many children's experiences when leaving care homes. That is not because, as it was sometimes suggested to me, local authorities routinely turn children out of homes when they reach eighteen and without preparation or support. No one who made that allegation responded to my invitation to provide a single example. But for all sorts of reasons, not least those linked to the immaturity of many eighteen year olds, they will sometimes shun advice and support and soon find themselves isolated and essentially abandoned. I was therefore pleased to see provisions in the Children and Social Work Bill that will govern how local authorities support care leavers (and children in care), place a requirement on local authorities to consult about and publish a local offer to care leavers, and extend the duty on local authorities to provide a personal adviser to all care leavers until they reach age 25.

¹³³ Staying Put: Arrangements for Care Leavers aged 18 and above to stay on with their former foster carers DfE, DWP and HMRC Guidance May 2013

¹³⁴ Who Cares Trust press release, 4 December 2013

Extending Staying Put to those living in children's homes is not straightforward. There are legal, practical and financial challenges, including the safeguarding of younger children which make doing so not impossible, but difficult. And it is by no means certain that children would welcome sharing their home with a young adult, perhaps as old as 21. As Natasha Finlayson, Chief Executive of the Who Cares Trust and who has explored the extension of Staying Put on behalf of DfE Ministers, told me of her discussions with children:

“One of the things I found noteworthy was the unease that some children in children's homes felt about young adults (18-21) staying on in the home, in terms of a broad safeguarding agenda (drugs, alcohol, bringing mates back, partying, arguing with staff etc.)”

But even assuming children's anxieties, their safeguarding and other issues could all be addressed, the simple replication of Staying Put to children in residential care by allowing them to stay on past their eighteenth birthday and until they were 21 would be prohibitively expensive. An NCB led study¹³⁵ commissioned by the Department for Education and reporting in December 2014 identified four different options for extending Staying Put to those in residential care. The simplest option, allowing children to remain in the home in which they were living before their eighteenth birthday, was estimated to cost about £142million over three years. And that figure was based on an assumption that only a quarter of eligible children would opt to stay put.

The most affordable option explored by the NCB study was to allow care leavers to Stay Close rather than to Stay Put. They would live independently in their own flat, but in a building very close to the children's home. They would continue to have the support of a key worker from their previous home and could visit the home frequently. It was estimated that the cost of this option for each young adult who took advantage would be about £11,300 a year. (although, encouragingly, existing arrangements for care leavers in North Lincolnshire, which involve them moving to adjacent accommodation on the same campus, are estimated to cost the local authority about half that figure).¹³⁶

The cost over three years would be determined by the length of time young adults wished to remain in the Staying Close accommodation. If the average stay was eighteen months, and utilising the NCB estimate of 288 young adults a year joining the scheme, the full year costs would be in the region of £13million¹³⁷. If the average stay were two years, the cost would be in the region of £16m (If the North Lincolnshire costs proved a more accurate guide the three year costs would be

¹³⁵ National Children's Bureau, The Who Cares? Trust, Action for Children, Barnardo's, Together Trust and the Centre for Child and Family Research, Loughborough University.

¹³⁶ Private communication

¹³⁷ Assuming that over three years, 288 young adults embark on the new arrangements at a cost of £11,300 a year and stay for eighteen months, the 288 young adults who join in year two also stay for eighteen months and the young adults in year three stay for twelve months (of that three year period) This suggests costs of £ 4.8M for year one, £4.8m for year two and £3.25m for year three, a total of £12.85million

between about £6.5 and £8million. All of these cost estimates are much smaller than my estimate of the savings which local authorities can make through the better commissioning of residential care, and which I detail in chapter 1.

But the costs and the operation of such a scheme need further work and need to be piloted in three or four places to test some key assumptions (not least about the take-up and length of stay). I was able to test this option – in confidence – with two leading members of the Every Child Leaving Care Matters Campaign. Ed Nixon, a retired social worker and manager of a chain of children’s homes and Ian Dickson, himself brought up in care, and a retired social worker and Ofsted inspector. They shared my view that the NCB costings were not optimistic. More importantly, they were each convinced that *Staying Close* as opposed to *Staying Put* (or as they put it, offering young adults support not supervision) could be a better option for most children reaching adulthood.

Such a scheme would need some structure. Care leavers told me repeatedly that although they were often encouraged to look in on their old home, and were sometimes invited for Sunday lunch or summer barbecues, they soon felt in the way and drifted away, particularly when the members of staff they knew moved on. There would have to be an expectation that – like most children leaving home to go to University – they could return frequently and regularly, bringing their washing and other practical support needs with them. I recommend that Ed Nixon and Ian Dickson be invited to help officials in DfE further develop this option and that DfE use the Innovation Programme to allow three or four providers to pilot variations of the scheme.

If I am right about the magnitude of the savings available through better commissioning, and if the NCB estimates of the cost of introducing *Staying Close* are reasonably accurate, then there is no reason that it could not be made available to all those in children’s homes reaching their eighteenth birthday. This would be a big prize. Introducing *Staying Put* for those in Foster Care was a remarkable achievement. But the need for similar arrangements for the minority of children living in homes is genuinely greater because of their acute vulnerability. As Professor Mike Stein¹³⁸ told me:

“Young people whose final placement is in a children’s home, before leaving care, are often the most vulnerable in the care system, having greater needs than those in foster care¹³⁹. Many enter their final placement having experienced multiple placements, with very poor educational attainment and high levels of mental health problems... Over half of the young people in children’s homes leave care before they turn 18 compared with around a third of children in foster care.¹⁴⁰ Leaving care at 16 or 17 years of age is associated with very poor outcomes: only a quarter of young people who left care at 16 years of age were in education at 19 compared with 40 per cent of

¹³⁸ In evidence to the review

¹³⁹ Sinclair I et al, (2007) *op city*

¹⁴⁰ Children’s Home Data Pack (DfE – 2014)

young people who left aged 18 and over – and only 6 per cent of young people from all placements go on to higher education¹⁴¹. After leaving care they are also likely to have a cluster of problems including poor mental health, getting into trouble, being unemployed and periods of homelessness¹⁴².”

We cannot allow young people, often just weeks from childhood, to be left to navigate life on their own. And nor should we sit by and allow them to drift home when that is patently not in their interests. When visiting homes, and when talking to staff and to care leavers, I was frequently struck by the resigned approach to a child becoming eighteen and the probability of that child gravitating to their parental home, despite that home having been at the centre of their earlier neglect. But that happens because – from the young person’s point of view – there is often little alternative. *Staying Close* would provide that alternative.

Children reaching adulthood and living in children’s homes are relatively small in number. But they are the most profoundly challenged, disadvantaged and often damaged children in the country. Offering them continued care and support alongside a growing independence, and in a way comparable to that experienced by eighteen year olds when they leave home for University, would be dramatically to improve their life chances.

Recommendation:

Recommendation 33: Subject only to verifying my cost estimates through a number of Innovation Programme pilots, I urge the Government to commit to introducing *Staying Close*. And I recommend that that Ed Nixon and Ian Dickson from ECLCM should be invited to help officials in the Department for Education further to develop this reform, including advising on the selection and management of the pilots.

¹⁴¹ Ibid

¹⁴² Dixon, J, and Lee J, with Stein M, Guhirwa, Bowley S, and Catch22 NCAS peer researchers (2015) *Corporate Parenting for young people in care – Making the difference?* London. Catch22

7. A note on European Social Pedagogy

A number of those who provided evidence and a number of those I interviewed suggested that residential care in England could be improved by importing practice from abroad (most usually northern Europe). There was particular enthusiasm about the use of social pedagogy.

The use of social pedagogy in a variety of care and education settings is well regarded and well established in many parts of Europe. Its development across the continent has followed different traditions and although practice is based on similar theories and values, there is no singular agreed definition. Its use in England is less well established and as such many practitioners find it difficult to articulate or even conceptualise. Petrie et al. 2006 describes it as “education in the broadest sense of that term”¹⁴³ encompassing personal, social and moral education and drawing together theories and concepts from related disciplines such as sociology, psychology, education, philosophy, medical sciences and social work.

Danish social pedagogues work in a variety of settings including children’s homes and after completing a three and a half year degree course including fifteen months of practical placements. Danish pedagogues are therefore better qualified than most of those who work in children’s homes in England (although staffing levels in England are generally higher than in Denmark).

Outcomes for children living in residential care in Denmark are significantly better than outcomes in England with, in particular, better children’s engagement in education.¹⁴⁴ But it is impossible convincingly to assert that this is as a result of the use of pedagogy. I was told, not infrequently, that the Danes had an approach which was built around supporting families and intervening less. Indeed, a DfE led expert group said in 2012 that “In European countries such as Denmark... there tends to be much stronger focus on prevention and family support.” But statistics on numbers and proportion of children in care in Denmark do not sustain that view. Research from the Nuffield Foundation has shown that the rate of Danish children which are looked after is nearly double that in England, with 104 Danish children looked after per 10,000 in 2011, compared to just 56 per 10,000 in England¹⁴⁵. And although the percentages are now falling, the percentage of the looked after population which is in residential care, is far higher in Denmark (41%)¹⁴⁶, than in England. If the proportion of children in care in England were as high as the proportion in Denmark we would have about 128,000 children in care. And if, as in

¹⁴³ Petrie, P., Boddy, J., Cameron, C., Wigfall, V. and Simon, A. (2006) *Working with Children in Care: European Perspectives*, Open University Press

¹⁴⁴ Cameron, C *Social Pedagogy: what questions can we ask about its value and effectiveness?* http://www.thempra.org.uk/childreinaustralia_CC.htm

¹⁴⁵ *Beyond contact: Work with families of children placed away from home in four European countries*, University of Sussex, Centre for Innovation and Research in Childhood and Youth for the Nuffield Foundation, 2013.

¹⁴⁶ The statistics of the National Social Appeals Board “Children and Young People Placed Outside Home”, 2008, p.27.

Denmark, the proportion of that number in residential care was 41% we would have 52,000 children living in children's homes. Instead we have less than a fifth of that number.

Children's homes in England care for generally older children with greater challenges and deficits. Additionally, average stays in Danish children's homes are more than twice the length of stays in English homes¹⁴⁷. It would therefore be simply extraordinary if outcomes for children leaving care in England were comparable to Danish outcomes. As Berridge and others have commented:

"The overall context of children's services in England is very different to that of Germany, Denmark and other continental European countries. Depending exactly how comparisons are made, most children in care in Germany and Denmark live in residential settings. Here it is barely ten per cent. Consequently, Social Pedagogues elsewhere are likely to work with a higher proportion of younger children, who grow-up in residential settings. There is longer to promote relationships and to develop social education... In England, residential homes often provide a short-term, transitory service catering for a small, older, heterogeneous, problematic core."¹⁴⁸

There are therefore significant challenges in evaluating the effectiveness of social pedagogy across countries, as highlighted by Cameron¹⁴⁹. But encouraged by the possibility that it could be effective, the introduction of pedagogues into children's homes in England was trialled in 2009. In their evaluation of the pilot, Berridge et al¹⁵⁰ found there were no significant differences in outcomes and that "pilot homes which employed pedagogues made no more progress with residents' well being than did those without."¹⁵¹

Since the pilot, interest in pedagogy in England has continued and a number of local authorities claim more encouraging results with its introduction. In Derbyshire for example the introduction of pedagogy has apparently been accompanied by a reduction in physical interventions to the point where they are said to have all but disappeared¹⁵². Such experimentation should be encouraged, but, like Berridge, I do not believe that social pedagogy is a panacea. Nor do I believe that it necessarily

¹⁴⁷ 24.7 months, compared to 11.1 months. Petrie et al (2006) *Working with Children in Care: European perspectives*. (Open University)

¹⁴⁸ Berridge, D., N. Biehal, E. Lutman, L. Henry and M. Palomares (2011). Raising the bar? Evaluation of the Social Pedagogy Pilot Programme in residential children's homes London, Department for Education

¹⁴⁹ Social Pedagogy: what questions can we ask about its value and effectiveness? Claire Cameron (Anglia Ruskin University, England) *Children Australia*, Vol. 36, Issue 4, December 2011. doi:10.1375/jcas.36.4.187

¹⁵⁰ Berridge, D., N. Biehal, E. Lutman, L. Henry and M. Palomares (2011). Raising the bar? Evaluation of the Social Pedagogy Pilot Programme in residential children's homes London, Department for Education

¹⁵¹ Ibid

¹⁵² Social Pedagogy: a scoping document for Derbyshire County Council <http://derby.openrepository.com/derby/bitstream/10545/294879/1/Social+Pedagogy+Final.pdf>

involves a radically different approach to the care of young people. Berridge describes the pedagogical approach which:

“Is said to involve the whole person – head, hands and heart. Relationships between staff and children are central and physical contact may be used for reassurance. Pedagogues undertake domestic tasks in developing a comfortable living environment. Activities with children are important, including developing practical and creative skills.”

For me, that is close to a description of good residential social work in England. As Berridge has said we can be allured by what he calls the ‘Nordic Nirvana’¹⁵³:

“There is a tendency to believe that children’s services in other countries are more successful than ours. However, the large policy transfer literature cautions against introducing social policies from elsewhere into a very different social and historical context.”

I am not suggesting we cannot learn a great deal from international approaches and we should welcome further experimentation. But we might also reflect that other countries, both European and American, might look with some admiration at features of our system in England, including the relatively low numbers of children in residential care.

What is important is that homes are clear about the approach they utilise with children. Good and outstanding homes are generally clear about their models of care, will have high calibre leadership and make sure that what they offer and to whom is reflected in their statement of purpose. Weaker homes will often be those who have no underpinning intervention framework to guide their practice and direct their work with children.

We need to know more about different approaches to high quality residential care. The Government’s current proposal to establish a ‘What Works’ Centre for children’s social care provides an excellent opportunity for encouraging a stronger and urgently needed evidence base for the best children’s residential care.¹⁵⁴

¹⁵³ Policy transfer, social pedagogy and children’s residential care in England David Berridge 2013

¹⁵⁴ The new What Works Centre (WWC) for Children’s Social Care will focus on improving outcomes for children who are at risk of, or suffering from, abuse and/or neglect. It will identify the most effective interventions and practice systems and support their implementation by practitioners and decision makers. Its goal will be to improve outcomes for children and their families by developing a powerful evidence base, and supporting its translation into better practice on the ground. The Centre will be independent of Government.

8. Conclusions and the need for system leadership

Children's homes are seen by many social work professionals, including many senior managers, as places of last resort: perhaps somewhere to park children temporarily, until a crisis has passed. Not all professionals share that view. I was struck by a small number of senior managers, including Directors of Children's Services and Local Authority Chief Executives, who had worked, however briefly, in residential care, and who recognised its potential. But for a greater number of managers, homes are seen as an anachronism, and relatively little investment has gone into developing best practice within them. And there has been a signal failure to obtain reasonable value for money when using them.

The dramatic shift in recent decades toward the much greater use of fostering and the marked reduction in the use of children's homes is broadly to be welcomed. But I believe that shift sometimes encourages a view that we can do more by further and substantially reducing our use of children's homes. I found little - beyond a certain optimism - to justify that view. I think there may be scope for moving some children, who have previously not succeeded in fostering, from residential care and into a different sort of foster care. But there is a very real and unmet demand for the greater use of children's homes as part of an initial assessment for older children when first coming into care, and for those on the edge of care.

So I see very little scope for reducing our reliance on children's homes and I am quite clear that to do so would not be in the interests of children.

As I have tried to make clear in this report, I think the role of children's homes is misunderstood, the challenge of the children they care for underestimated, and the contribution they make too easily dismissed. Three quarters of homes are good or better. Some are genuinely outstanding. I have been moved by some of what I've seen. What they can achieve, is captured brilliantly here by one care leaver, who looks back on her experience with gratitude and affection:

"Residential care was my home, it was my life and it is still a big memory... Residential care absolutely turned my life around and I now am in a position where I am studying social work and giving back to the community... This would not have happened should I have remained in foster care."

That is not to say children's homes cannot be improved. They can and they should. I think that improvement will happen more quickly and more consistently, if the Department for Education bring some leadership to the sector, through the creation of Residential Care Leadership Board. It should report to the Minister for Children, be supported by officials from the Department, and comprise academics; providers from local authorities, the voluntary and the private sector; commissioners and other experts.

Such a body could lead work on improving commissioning and obtaining better value for money for local authorities; advising Ministers on planning issues and on

the role of and future demand for secure care; further reducing unnecessary criminalisation; keeping children safe and managing their behaviour; best practice in recruitment; and how best to implement *Staying Close*. Such a Board would, I believe, remove much of the suspicion and mistrust in the residential care world, improve best practice, and bring greater clarity and coherence to this much misunderstood and grossly under appreciated part of children's social care.

Recommendation:

Recommendation 34: The Department for Education should establish a Residential Care Leadership Board. It should report to the Minister for Children, be supported by officials from the Department, and comprise academics; providers from local authorities, the voluntary and the private sector; commissioners and other experts.

List of Recommendations

Chapter One: Obtaining better value for money in the commissioning of children's homes

Recommendation 1: An early priority for the Department for Education must be to facilitate the improvement of local and regional commissioning skills. Simultaneously, DfE must require local authorities to come together into large consortia for the purpose of obtaining significant discounts from private and voluntary sector providers.

Recommendation 2: I recommend that the Department for Education urge local authorities and consortia, and all providers, to subscribe to Link Maker.

Recommendation 3: I suggest that the Innovation Programme at the Department for Education might be used to ease entry to the English market for new or expanding voluntary sector providers.

Recommendation 4: I recommend that providers examine their staff attendance systems to ensure they are as effective as possible in meeting the needs of children. And commissioners, when placing children, should look closely at the numbers of staff on duty at key times of the day.

Chapter Two: Fostering, closeness to home, the size of homes and secure care

Recommendation 5: Assuming the evaluation of No Wrong Door is as positive as I would expect, the Department for Education should encourage other local authorities to study the hub approach and the potential for this to help children into foster care.

Recommendation 6: We must ensure we are recruiting and retaining the best possible foster carers, and with a sufficient number able to care for the most challenging children. And we need to pay foster carers well: their contribution is often heroic. But we have to ensure that the charges that local authorities pay providers are not unnecessarily inflated. Fostering is overdue a fundamental review and this should be a priority for the Department for Education.

Recommendation 7: I urge local authorities and consortia to be cautious about following any hard and fast rule about placement distance and to recognise that the right placement for a child is more important than location. They should no longer impose geographical restrictions on where homes must be located in order to be included in contracts.

Recommendation 8: I recommend that local planning authorities should review their Local Plans to include a clear statement of housing need for children in children's homes so providers understand whether or not additional homes are required.

Recommendation 9: Commissioners should not purchase beds in smaller homes because of an assumption that they are likely to be more effective. The evidence does not support that assumption and Ofsted have made it clear that they do not have a preference for smaller homes.

Recommendation 10: The Department for Education, in liaison with the Department of Communities and Local Government, needs to examine the extent to which the current interpretation of planning law is leading to a proliferation of newer smaller homes, which will certainly be more expensive to commissioners, but which are not likely to be any more effective than slightly larger units. At the same time the Department should assess whether differences in the interpretation of *material* between planning authorities is distorting the location of new homes.

Recommendation 11: The Department for Education needs either to ensure local authorities come together to drive down the cost of secure placements to about that achieved by the YJB, or to commission secure welfare beds from the centre alongside the YJB.

Recommendation 12: Simultaneously, the Department needs to lead a debate with the sector about the role and purpose of secure accommodation and what it can achieve, in keeping exceptionally challenging children safe, and in protecting others.

Recommendation 13: The Department for Education need to consider how they might encourage alternative providers from the voluntary and private sector to enter the secure care market.

Recommendation 14: The extent of the use of single placements for children (including an assessment of the cost and effectiveness of such arrangements) as an alternative to using secure beds needs to be investigated by DfE.

Chapter Three: The criminalising of children; staff confidence; setting boundaries for children; and the use of restraint

Recommendation 15: The Department for Education and the Home Office should urge police services and local authorities to replicate the south-east protocol, or to agree similar arrangements. And, where they are not already doing so, to apply a restorative justice approach in dealing with children's unacceptable behaviour.

Recommendation 16: The Department for Education, in consultation with Ofsted, needs to reconsider their guidance – taking account of recent Court judgements – to ensure that staff are able to keep children safe by preventing them leaving homes at time of danger, either by locking doors or using restraint, and that they can be confident in the legality of their doing so.

Recommendation 17: The Home Office counting rules – quite properly designed so that crime is not under recorded - allow the police very little flexibility in dealing with crimes committed in homes. This is in contrast to schools where police discretion exists and is frequently used. I recommend that the Home Office should

allow police forces similar discretion not to record all low-level crime by children living in homes.

Chapter Four: Ofsted

Recommendation 18: I urge Ofsted to introduce arrangements which will mean that, save in exceptional circumstances, homes achieving a good or outstanding rating will be inspected only once a year

Recommendation 19: I urge Ofsted to ensure that dialogue between homes and inspectors is the norm before, during and after inspection and that inspector performance assessment takes account of this requirement.

Recommendation 20: I urge the new Her Majesty's Chief Inspector of Education, Children's Services and Skills to review the practice of using one or two word judgements when inspecting children's homes. They can do a disservice to some thoughtful reporting.

Recommendation 21: Commissioners should abandon blanket policies that rule out placements in homes which, essentially, are satisfactory. And Ofsted should no longer encourage authorities only to place children in good or outstanding homes.

Recommendation 22: I urge Ofsted to clarify – very loudly – the reality that a *requires improvement* verdict means that a home is an adequate home.

Recommendation 23: I urge Ofsted to be more alive to the fact that a decision to place a child against the home manager's will, while best avoided, may sometimes be the right decision. They should be cautious about second-guessing such decisions.

Recommendation 24: Providers may want to consider whether it is appropriate for the manager necessarily to own what is essentially a veto on a placement. The Children's Homes Regulations¹⁵⁵ state that the *registered person* must ensure that children are only admitted to a home if their needs are within the range catered for in the statement of purpose. In most instances, the manager is identified as the *registered person*. But the regulations allow either the manager or the provider to fulfil that role.

Recommendation 25: I urge Ofsted to re-visit their inspection framework and acknowledge that, exceptionally; the use of restraint on particularly challenging children might not reduce over time.

Recommendation 26: I recommend that the Department for Education discuss with Ofsted how arrangements for Regulation 44 visitors might be improved, including whether Ofsted should have the power to approve the appointment and/or require the replacement of such visitors.

¹⁵⁵ Children's Homes regulations 2015, para 14.2

Chapter Five: Staff qualifications, pay and recruitment

Recommendation 27. Although the intention in Scotland is to require staff in children's homes to be graduates (from 2018)¹⁵⁶ I urge Ministers not to follow that example in England.

Recommendation 28. The Department for Education should ensure that where the diploma is delivered primarily online, and without group tutoring, that standards are not compromised.

Recommendation 29. Commissioners should look for evidence that providers offer continuing staff development, particularly through team-based training. And DfE should advise commissioners about the RESuLT programme and similar team approaches, which are likely to prove effective in developing staff.

Recommendation 30. DfE should consider how the expectation that homes should be managed by qualified social workers can be established.

Recommendation 31. I recommend that DfE move swiftly to ensure that as many social work students as possible spend some of their two hundred days placement experience in children's homes.

Recommendation 32. I recommend that the Department identify and promulgate best practice in recruitment to children's homes. That should include advice on how, as far as possible, employers can screen out those whose behaviour might fall short of the immense challenge that this work can present.

Chapter Six: Staying Close rather than Staying Put?

Recommendation 33: Subject only to verifying my cost estimates through a number of Innovation Programme pilots, I urge the Government to commit to introducing *Staying Close*. And I recommend that Ed Nixon and Ian Dickson from ECLCM should be invited to help officials in the Department for Education further to develop this reform, including advising on the selection and management of the pilots.

Conclusions and the need for system leadership

Recommendation 34: The Department for Education should establish a Residential Care Leadership Board. It should report to the Minister for Children, be supported by officials from the Department, and comprise academics; providers from local authorities, the voluntary and the private sector; commissioners and other experts.

¹⁵⁶ Response to the report of the National Residential Child Care Initiative: Higher Aspirations, Brighter Futures, Scottish Government, 2009

Annex 1: Children's residential care review: Independent call for evidence summary

Introduction

In November 2015, I launched an independent call for evidence to seek views on the purpose and role of residential care for young children, and to understand what works best to improve their outcomes. This consultation received over 160 responses. Around 40 individuals submitted responses to the call for evidence, including care leavers, social workers, regulation 44 inspectors, psychotherapists, therapeutic consultants and academics. A number of children in residential care and their parents also provided evidence. Over 120 responses were from larger groups, including local authorities, charities, residential care providers and independent advocacy organisations. Content varied from responses set closely to the terms of reference of the review, to evidence concerned more narrowly on a specific issue. This summary is by no means a detailed or exhaustive list of every response received. Rather, it attempts to reflect the most predominant themes which emerged.

Key themes

Supporting children and young people's needs

The most prevalent theme which arose was that children and young people in residential care often have the most complex needs of the looked after population and crucially require adequate support on a range of issues. Responses lobbied for more specialist support to be provided to achieve this, as well as 'equality' of support in fostering and residential care.

The fact that Staying Put arrangements are not available to those in residential care was repeatedly raised. A response from Barnardos emphasised '*The Government should build on its strong progress in supporting those in foster care to 'stay-put' by extending this type of support to 21 for children in other care settings.*' Derby City Council argued that '*Staying Put arrangements have the potential to improve transitional arrangements for young people from foster care. Whilst it might not be appropriate or affordable to extend these arrangements to residential care, consideration should be given to enhancing the financial and other support available.*' The Every Child Leaving Care Matters group, who campaign to secure Staying Put rights for those in residential care, also insisted the review should consider ways in which this could be arranged, again emphasising the need to ensure children in residential care have equality with those in fostering. According to a current residential care worker: '*we need accommodation that provides support after children's homes. It is unfair that Staying Put arrangements are not available to children in residential. We need to provide living arrangements up until around 25 years old, just like families do.*'

The Who Cares Trust were concerned about what impact the absence of Staying Put arrangements have on young people's transitions into adulthood, arguing that *'While not all children in care have to leave children's homes at the age of 16, a significant majority leave before their 18th birthday, either to independent or semi-independent living which all too often means that young people leave their children's home ill-prepared and unready to live independently (from both a practical and an emotional perspective).* Organisations wrote to the review to share lessons from initiatives to support young people leaving residential care better, such as Catch22 who submitted a response detailing their 'Learning Independence for Transition' children's home project, making recommendations on how best to improve this.

Ensuring children in residential care are adequately supported in their mental health and wellbeing was something that was frequently mentioned. A considerable number of individuals and organisations with specialist expertise in the area of mental health raised the point; however it was a concern that was shared by others more generally in the sector. For example a response from Motivations Care (a provider of three children's homes in Birmingham) was vocal on the issue of more effective systems in place for children in residential care to receive adequate CAMHS support, which has been summarised: *'it is already enormously difficult to source appropriate therapeutic input for looked after children through CAMHS... this means that the primary therapeutic input received by these young people will be located within their experience of residential care...the relationship they have with the residential staff on a daily basis are these young people's best chance of therapeutic experience to redress the impact of early trauma.'* This response advocates the development of a professional pathway recognising the specific capability to manage and deal with complex behaviour and trauma and places staff development at the core of children's home work. The British Association for Counselling and Psychotherapy urged for a more systemic and consistent use of counselling for children in residential care, given that looked after children in general are *'particularly vulnerable to poor mental wellbeing and have higher prevalence rates of diagnosed mental health disorders, particularly attachment disorders.'* They argue the instability children in residential care often face such as multiple placements, interrupts mental health treatments.

How best to support those children in residential care with special educational needs and disabilities (SEND) was also discussed. Some responses spoke about the general population of children in residential care with SEND (but who might also be in mainstream education) whilst others focused on the specific sub- group of children living in residential special schools. The Council for Disabled Children provided information to the review on the latter, arguing that those children with SEND living away from home in residential schools needed to be considered with the scope of the review, particularly given that there are gaps in data in this area with very limited information on these children's outcomes. NHS England CAMHS Learning Disability Project also discussed their work in 2015 which had a specific remit to *'implement the Transforming Care agenda for children and young people with learning disabilities and or autism.'* Despite 'Visits to Children in Long-Term Residential Care Regulations 2011' – they conclude there is no clear evidence to confirm all of these children are regularly and appropriately visited and monitored.

Sharing what works to improve children's outcomes in residential care

Individuals and organisations responding to the call for evidence were keen to identify and share their own perspectives on what works to secure positive outcomes for children in residential care. Views on what works were often inherently linked to the role and purpose of residential care. Whilst many responses expressed that ideally children should be placed with their families or in foster care, a consistent message was that residential works for children and young people who simply do not wish to live in another person's family.

Sandcastle Care argue that children's homes should be seen as a positive option for those children who would have difficulty feeling comfortable in a small family setting. Some argued that given the diversity of the sector which serves a range of children, homes needed to be clearer on what specific service they provided and who in the population they best supported. Conversely, Leeds County Council argued that *'children's homes should have a specialism or a model of practice and service delivery; rather than a statement of purpose'* and that *'Placing children with similar needs and care plans in the same home together, in most part, works as each child can see how other children are progressing towards their goals or plan.'* Barnsley Council expressed a view that there should be *'separate provision for emergency and mainstream respite placements'* suggesting these could take the form of *'either very small units or emergency foster placements.'* Hampshire County Council also argued that there is currently no nationally agreed definition of the purpose and aims of secure children's homes. Another wider, prevalent message was the need for a widely held definition of what constitutes *'therapeutic residential care.'*

Clear messages frequently identified in terms of what works included warm and supportive relationships between children and residential care staff, strong leadership, a stable and committed staff team, a positive home ethos and good use of and access to relevant support services. In particular, careful and proactive care planning, adequate assessment, placement stability and high aspirations were strong recommendations from a range of stakeholders. According to evidence submitted by one individual academic, *'a central issue is the quality of care'* with the determinants of quality placements in children's homes those which are *'small, well-staffed, well led and managed, having a low turnover of staff and young people, adopting a consistent regime and positive culture which supports education and well-being, and which may also include therapeutic programmes.'*

Investing in and raising the status of the workforce through ensuring they have access to ongoing support and practical training was discussed frequently. Some responses also explained that where possible and appropriate, efforts should be made by homes to help sustain relationships between children in residential care and their families. The National Implementation Unit who have delivered interventions in residential care including staff training based on Social Learning Theory and MultiSystemic Therapy Family Integrated Transitions (MST FIT) supported this. Planned, long term placements as well as sensitive assessment of needs was viewed as key to ensuring positive outcomes. Residential care being a *'24 hour job'* and *'not giving up'* on children were clear messages. Effective interagency working was raised particularly by those who had specialist expertise.

Many organisations shared learning from their own services and initiatives for children in residential care, including a number of projects currently funded by the DfE Innovation Fund. For example, The Tri – Borough Alternative Provision project provides a responsive, personalised residential intervention service. This aims to avoid children being sent for long term placements in secure estates by providing an on-site, residential education programme for children identified as at risk. This *'prioritises the use of high quality and robust data to provide interventions that narrow the gap, deliver reintegration, raise achievement and aspirations and support all learners through a personalised curriculum which offers an entitlement of a minimum of five GCSEs or equivalent in the secondary phase.'* Providers also shared their views on how to best to improve children's outcomes, based on their own experiences – which in turn reflected the diversity of provision within the sector. Many of these providers shared specific findings of evaluations they had carried out on their own impact. Glebe House have conducted a longitudinal study of the impact their therapeutic community and interventions have had on their young people, including tracking Ministry of Justice data and collecting detailed feedback before and after their young people joined them.

A resounding theme is that there needs to be a more formal mechanism to share 'what works'. Some who responded have taken steps to achieve this, for instance No Wrong Door (NWD), a residential service centred on two hubs in Harrogate and Scarborough. NWD highlight multi-agency working to provide strong assessment of the needs of the young person, as well as consistency in relationships between staff and C&YP and working closely with social workers as important to better outcomes for young people. NWD are developing the NWD Yorkshire and Humber 'Residential Innovation Forum' (RIF), formed as part of the NWD model to look at ways to share good practice and systems within a regional agenda.

Making improvements to commissioning in children's residential care

Many responses lobbied for greater information and transparency of what provision is available at a national and regional level, with some advocating for the expansion of joint framework arrangements. The majority of those who provided evidence and views on commissioning were fairly negative, with one response describing the current system as 'fairly chaotic.' Most were aware of the pressures commissioners were under in terms of their decision making and were keen to share practical solutions. An emerging message from across the call for evidence was the need for greater market knowledge to inform best practice in commissioning. According to the British Association for Social Work: *'Currently, we are reliant on what the market and private providers offer rather than commissioning what is actually needed and then planning the best way to commission it.'* Providers voiced concerns over the impact a lack of planning and understanding was having on children, for example one asserted that commissioners make decisions about children they have never met.

Those who discussed commissioning often recognised and spoke about the challenges involved, for example Action for Children summarised *'beds tend to be purchased for individual children, making sustainability for providers precarious'* whilst also voicing their concern about *'on-going practices of spot purchasing which act*

against children's best interests,' finally arguing that 'Consideration should be given to the benefits of regional or sub-regional commissioning and arrangements for residential care.' Concerns around 'spot- purchasing' in the market was shared by many who responded. The Children's Services Development Group called for a number of solutions to be implemented to improve the current commissioning landscape, including: *'multi-year budgets for local authorities to encourage strategic, longer-term planning; the introduction of a national outcomes framework to benchmark all providers of children's services and facilitate better commissioning; the separation of local commissioner and provider functions; commissioning of children's services on a level playing field across the public, voluntary and independent sector based on true cost-value comparisons; central government assistance for local authorities to map demand and existing capacity for specialist services within the system; and support for a transparent, sustained dialogue between commissioners and providers to help facilitate joint working within the system.'*

One response outlined that many LAs struggle to secure more specialised provision and that this needs to be better planned, outlining that *'Longer term contracts with providers (5 years + renewal) are helpful.'* *They enable and promote real partnership between LA and provider and enable providers the stability to allow investment in staff. Longer contracts would also help promote staff stability (helps continuity of carers) and save on cost of repeated tendering and contracting process.'*

Supporting the workforce to deliver high quality children's residential care

Responses reflected a widely held view that running children's homes is a challenging job which requires a long – term commitment to children, supported by well trained and compensated staff. While perspectives on how to best deliver this high quality care understandably varied, they held some commonalities. For example, many argued the best way to increase quality was to raise the aspirations and professionalism of the residential care workforce. The Level 3 Diploma was mentioned and was generally seen as a good foundation for staff to build upon, but many felt staff needed training over and beyond this qualification to equip them to best support traumatised children. One response went further to suggest *'the development of a specialist residential care degree course, or the introduction of a residential specialism within the existing social work degree.'* Another individual argued that if training and qualifications were of a higher standard and poor rates of pay and working conditions were addressed it would result in *'improved competence, calibre and confidence'* of the workforce, *'elevate the professional standing and upgrade the image of residential care, produce safer support and coordinated practice between residential workers and social workers.'* Attracting and keeping skilled individuals within the sector was a strong theme. Finally others identified the key problem as the confusion around where residential care as a career choice 'sits' within the context of social work and care. The National Youth Advocacy Service voiced concerns that *'a competitive marketplace does not foster the sharing of best practice.'* The challenge of running a children's home was raised by others, including one individual asserting how 'difficult' it is to do effectively, given the *'large amount of regulations and lack of certainty over when places will be filled,'* stating there needs to be *'closer working between commissioners and homes.'* A very small number of responses, including from the Restorative Justice Council raised concerns around

staff being unable to cope effectively with children's behaviour and resorting to use the police where this would not normally happen if a child was living within a family setting.

Regulation and inspection in children's residential care

While Ofsted's new inspection framework was generally well received, responses illustrated an imperfect system which at times places a heavy burden on already stretched providers. The majority of those who expressed a view on regulation and inspection in residential care were positive about the voice of the child being more important to the new process. Yet some still had concerns over the significant amount of regulation in the sector, which they saw as 'costly,' calling for a reduction in this and an increased focus on individual needs. Derby County Council stated *'Regulation and inspection needs to resolve the tension inherent in providing care for young people who pose a risk, or have a negative impact on others. It would also assist local authorities to see more emphasis on value for money in the inspection of residential care.'* An Independent Regulation 44 inspector suggested the review asks the questions: *1. How have the revised Regulations and Guidance, in relation to the independent scrutiny and challenge function arising out of Regulation 44, been interpreted by those managing, or operating, children's homes? 2. Has this proven to be an effective mechanism for improving standards of care over the course of time, and specifically recently since the revised Regulations have required greater independence? If not, what are the reasons for this?* Inspection was at times painted as being needlessly burdensome and lacking an understanding of the challenges children's homes face. A submission from children's homes in Surrey emphasised the need for inspection to be more realistic and supportive, with a strong theme emerging that there needs to be more open dialogue to help improvement rather than it being punitive.

The Community of Communities response echoed this: *'The inspection regime for children's homes and residential special schools focusses on a model of identifying deficits in provision in relation to quality, rather than promoting best practice. The inspection handbook remains focussed on risk avoidance, limiting litigation and increased bureaucracy rather than happy healthy children.'* A more bespoke way of baselining a young person's progress over time was repeatedly mentioned, with an individual summing this up by stating *'Frameworks should be adjusted to reflect a young person's starting point pre-admission (SDQ progress may assist)'* with the inspector taking this into account.

Ofsted provided a detailed response to the review. Overall, they felt that *'the quality of care provided for all children is not yet good enough but there are indications that the impact of our framework and the new Children's Homes Regulations are making a difference.'* Unsurprisingly Ofsted saw inspection as a crucial measure to ensuring quality; however they prioritised their continuing areas of concern in homes as *'the effectiveness (of) internal and external monitoring, management of behaviour, promoting children's welfare and the quality of staffing.'* In terms of best practice, Ofsted outlined that good and outstanding children's homes are characterised by *'effective multi-agency care planning, working effectively with other professionals, staff able to make valued and trusted relationships, ensuring the child and young*

person's needs are identified prior to the placement commencing (with support in place at the time or soon after) and effective management.'

The Youth Justice Board identified the delivery of services in secure environments are very different to that of mainstream children's homes in terms of regulations and best practice concerning the physical environment as well as safety measures. They identified a range of separate issues including single separation, behaviour management and restorative interventions, individual searches, advocates and complaints management, visiting arrangements and legal representation, surveillance of mail and post and workforce development with differences 'not always reflected in existing regulatory frameworks or guidance.' They argued the absence of such recognition can have a detrimental impact on a child's well-being and future life chances.

For those with experience of living in children's residential care, the quality of support received is crucial

A small but significant number of care leavers responded to the call for evidence¹⁵⁷ to share views from their own individual experiences. Their perspectives predominantly centred on the support they received (or, for some, didn't receive) when leaving their children's homes and during their transition into adulthood and independence, as well as the level of commitment of staff. The belief that children in residential care should receive the same support as those being fostered was strongly expressed. One individual was particularly negative also about her time still living in a residential care, specifically identifying numerous placement moves and being separated from a sibling. Another individual spoke about a much more positive experience she had leaving care from a voluntary – run children's home, giving a personal testimony to just how crucial this was in allowing her to successfully transition into adulthood. That said, again this individual argued that the standard Local Authority leaving care support is still 'inadequate and sub-standard.' The call for evidence also received a specific submission detailing the views of children currently living in a residential care home. They were asked to identify the positive and negative aspects of their experiences (including previous residential placements). Negative aspects identified included conflict between staff and children, lack of stable staff group, social workers who lose interest and don't spend sufficient time with you once in placement, violence within the home from other young people causing you feel unsafe, being restrained and stigma. Positives included a stable staff group that cares and won't give up on you, feeling listened to, engagement with education and supported on this, contact and support even after having left the home and engagement with family where appropriate i.e. through therapy.

¹⁵⁷ Please note as part of the review, I asked the Office of the Children's Commissioner to gather the views of care leavers and children currently in residential care. The findings of this research are available in Annex 2.

Annex 2: Office of the Children’s Commissioner for England: Summary of children and young people’s views of residential care

Introduction

In January 2016 the Office of the Children’s Commissioner delivered a report on the views of children in residential care. They identified children felt living in good children’s residential care ‘can be a positive experience and the best placement choice.’¹⁵⁸ Children wanted: to have their views reflected, to be in a placement that matched their needs, good staff who they could build relationships with, being able to maintain relationships with their birth family, the home to provide a ‘sense of belonging’ and to have the same opportunities as their peers – including access to technology and the internet.

What matters in residential care in terms of ownership, size and location?

A third of children surveyed who were in residential felt their location was far away from their family and friends, with a small number feeling ‘isolated.’ The appearance and feeling of homeliness in a home (including being able to decorate/ have control over) their own bedroom was important. Negatives included when homes feel institutional and had poor access to internet and television. Children who expressed a preference on size thought homes should be ‘for no more than 5-6 children’ but ‘could be smaller.’ Constant staff presence and higher ratios were identified as helping children feel safer. Outside space, having control over their leisure time were also important.

What would make life better in residential care? What needs to be improved?

Supportive staff who children felt they could develop a relationship with was highlighted as crucial. While many ‘did not want to live within a family’ still wanted ‘elements of this’ in the home. Some identified it was easier to maintain relationships with their birth family in residential care than fostering. Improvements: being heard, having a say in decisions; being closer to family, friends and familiar places, having access to opportunities and activities including wi- fi; ensuring their home is the right place for them - to feel safe, secure and stable and that they get along with the other young people they live with; getting help, continuity in placements and longer term support from staff and others.

¹⁵⁸ A total of 376 children contributed to evidence in the report which included: insights from children with experience of residential care who responded to the Care Monitor Survey (n = 242) focus groups and interviews with those in homes. The report therefore reflects the views of those children currently living in and with experience of living in residential care.

What helps to improve outcomes when leaving residential care?

When speaking about opportunities, help and support they would like for the future, children mentioned; strong relationships and continuing support in particular with from their key worker, more planned and supportive leaving arrangements, good semi-independent provision and follow on accommodation and opportunities to learn and contribute (including helping others in residential care).

Are there areas in residential care where we could obtain better value for money?

The report identified that 'it was clear that there could be better and more strategic use of resources. We heard of many missed opportunities to involve and enhance children's activities and life skills. Many young people said they were not involved in preparing food and cooking meals for example.'

Are there better alternatives for some of the children currently in residential care?

Children identified there was 'a place for residential homes and that what they offered was distinct to other types of care.' Fostering was seen as being 'for children who are more settled' with some identifying negative aspects including 'living within the rules of another family' where birth children were treated more favourably. Residential homes offered 'a wider range of staff to relate to.' Yet the responses of homes when children 'kicked off' (the report identified some instances where children thought the police were called unfairly) and having to 'grow up too soon' when leaving residential care were seen as more negative. Final issues which children felt would help their outcomes was; advocacy support, being more consulted in inspections and better access to mental health support.

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