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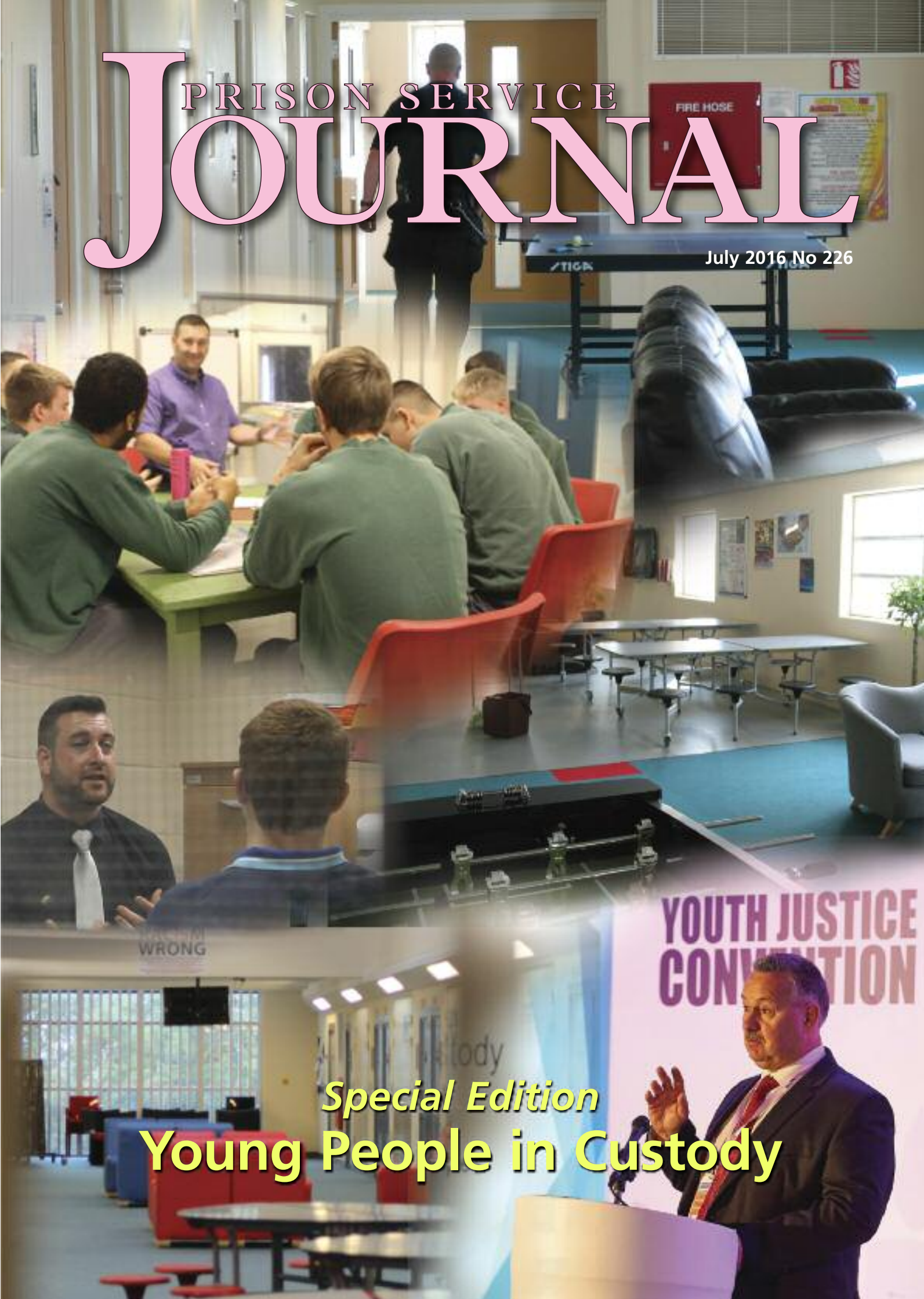
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July 2016 No 226



WASTED
WRONG

YOUTH JUSTICE
CONVENTION

Special Edition
Young People in Custody

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Editorial Comment

Paul Crossey is Head of Corporate Services at HMYOI Feltham and **Dr Kate Gooch** is a Lecturer at the University of Birmingham.

A special edition of the Prison Service Journal on young people in custody was only published five years ago¹ but much has changed. In the last seven years the number of young people in custody has reduced by two thirds,² resulting in a decommissioning of over 1250 youth secure estate places.^{3,4} Plans for a secure college were discontinued and a new focus was placed on education, redemption and radical reform. A full review of youth custody was commissioned, chaired by Charlie Taylor, whose final report is due later this year.⁵

Unsurprisingly, education is where this edition begins. 88 per cent of boys in custody have been excluded from school,⁶ and since March 2015 new education contracts were let across Young Offender Institutions (YOIs) with the aim of increasing education provision.⁷ Charlie Taylor's interim report suggests that a 'secure school' approach in place of YOIs may provide the future strategic direction of the government.⁸ Caroline Lansky's article in this edition delves more deeply into the education currently received by young people in custody. Her article explores how the 'hidden curriculum' of informal education helps young people to understand how they are regarded, and what allegiance they have, to wider society. Young people in custody are no strangers to institutions by the time they arrive. 33 per cent of boys in custody are 'looked after' by the local authority⁹ and children in care are five times more likely to be sanctioned for an offence than children in the general population.¹⁰ Claire Fitzpatrick, Patrick Williams and Darren Coyne explore the particular difficulties faced by looked after children and care leavers in custody. In particular they discuss how incompatible responding to the needs of this group and risk management is in a custodial setting.

The next two articles consider the mental and physical challenges that can create additional issues for young people in custody. Almost a quarter of boys admitted to prison inspectors that they had an emotional or mental health problem.¹¹ Nathan Hughes and Kate Perise O'Bryne explore the significant numbers of young people in custody with some form of neurodevelopmental impairment. Not only does this increase the likelihood of entering the justice system, it is likely to prevent young people following rules and interacting well in a custodial setting. In a practical application, Alexandra Lewis and colleagues describe a collaboration between HMYOI Feltham

and the National Autistic Society (NAS), aiming to develop standards and a framework of good practice to assist young people in custody with autistic spectrum disorder. This has since led to HMYOI Feltham being granted Autism Accreditation status by NAS, the first prison of any sort in the world to achieve such an accreditation.

The next group of articles focus on large scale reviews and the transition that young people make to young adulthood. Lord Carlile reflects on the progress made since his review of strip searching, segregation and restraint ten years earlier. Friedrich Lösel and Doris Bender complete a review from a European perspective of the treatment of young offenders. Finally, Lord Harris and Deborah Browne extend this with a discussion paper related to the review of self-inflicted deaths in custody of young adults aged 18-24. Their paper reflects on the abrupt end to support for young people transitioning to this new population at 18 and they call for further support for this vulnerable group. Three interviews subsequently provide an insight into the perspective of those accountable for young people in custody. Paul Fowweather, the first Deputy Director of Custody for Young People, Kate Morris, Director of Operations at the Youth Justice Board, and Pete Gormley, Governor of HMYOI Werrington, answer questions on the changes, successes and challenges that they face.

A young person's custodial journey concludes with resettlement. However, despite wide ranging developments including, and possibly because of, the reduction in the population of young people in custody, over two thirds of young people in custody go on to reoffend within a year.¹² Tim Bateman considers the role of resettlement in shifting a young person's identity away from that of an offender, but also highlights the concerns of delivering effective resettlement on the ground. In addition, with education at the heart of attempts to rehabilitate young people, Dame Sally Coates is interviewed in this edition to coincide with the publication of her review. She discusses her own background working with young people outside of custody, as well as the approach and themes of her review. Taken together, this special edition seeks to consider the way in which the young people's estate has changed, the opportunities and challenges that remain and the possibilities for reform.

1. Prison Service Journal (2011:197) Special Edition: Young People in Custody. HMP Leyhill: Ministry of Justice.
2. Youth Justice Board (2015) Monthly youth custody report: August 2015. London: Ministry of Justice.
3. Youth Justice Board (2014) Annual Report and accounts 2013/14. London: Youth Justice Board.
4. Youth Justice Board (2015) Annual Report and accounts 2014/15. London: Youth Justice Board.
5. Taylor, C. (2016) Review of the Youth Justice System: An interim report of emerging findings. London: Ministry of Justice.
6. Prime, R. (2014) Children in Custody 2013-14. London: HM Inspectorate of Prisons and Youth Justice Board.
7. See 4.
8. See 5.
9. Kennedy, E. (2013) Children and Young People in Custody 2012-13. London: HM Inspectorate of Prisons and Youth Justice Board.
10. Department for Education (2015) Outcomes for children looked after by local authorities, as at 31 March 2014. London: DfE.
11. See 6.
12. Ministry of Justice (2013) Proven re-offending quarterly: October 2011 to September 2012. London: Ministry of Justice.

Formal and informal learning in custodial settings for young people

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Introduction

Recent policy interests to place education at the heart of detention are the latest example of a long-held concern about the quality of education for young people in custody. Belief in its reformatory potential has underpinned voluntary and state-led initiatives from the schools established by Mary Carpenter in the mid nineteenth century¹ to recent proposals for secure colleges.²

From an instrumental perspective, it is argued that education for young offenders is an important means of social integration. It facilitates the development of knowledge and skills needed for a fulfilling lifestyle and participation in society: *'high quality education ... gives them the opportunity to work hard and fulfil their potential... equipping them with the skills, training and self-discipline they need to stop offending and contribute positively to society in adult life'*.³ However the relationship between education and making a contribution to society is not direct. It relies on opportunities for the education to be applied and also on people's interest to contribute. What is important to consider therefore, is whether young people's learning in custody is likely to foster a desire to make a contribution to society.

On one level, the concept of 'learning' is much broader than the concept of 'education' that is used in secure settings in England and Wales. The term 'education' is often confined to the practice of formal academic learning that takes place in a designated department within the secure setting. It may or may not include other formal learning that takes place such as vocational training workshops or offending behaviour programmes or 'one-off' special initiatives such as arts events by external organisations.

What young people learn within the secure setting, however, reaches far beyond these formal activities. In educational circles, this is described as the 'hidden

curriculum': *'the myriad of beliefs and values transmitted tacitly through ... social relations and routines.'*⁴ If we think of learning in this broader way, then we see how young people through their experiences of custody receive a more general lesson about how they are valued by the society that placed them there. They will learn how they are regarded from the quality of the environment, the rules and daily regime set up for them, and their interactions with staff.

What do young people learn from their time in custody formally and informally? This article considers this question with reference to comments from young people about their time in secure settings in England and Wales. It draws on data from interviews and focus group discussions with young people who were or had recently been in custody. The data were collected during two research projects, one which took place between 2012 and 2014 on the educational experiences of young people in the youth justice system⁵ and the other, conducted with Alison Liebling, Deborah Drake and Joel Harvey which took place between 2006 to 2008, in two Young Offender Institutions (YOIs) and two Secure Training Centres (STCs).⁶ Across the different custodial contexts and time periods some common themes about young people's formal and informal learning in custody emerged. These are discussed below.

Formal Learning Opportunities in Custody

One means by which young people learnt the value the establishment placed on their personal development was through the range and consistency of formal learning opportunities on offer. The young people who received remedial literacy and numeracy classes, appeared to benefit the most from the provision in custody. In one of the YOIs, young people with English as a second language received one-to-one tuition, which they found very helpful. A small number of young people were offered opportunities they would never have had in their home community. For

1. Carpenter M (1851) *Reformatory Schools for the Children of the Perishing and Dangerous Classes*. London: C. Gilpin.
2. Ministry of Justice (2013) *Transforming Youth Custody Putting education at the heart of detention. Consultation Paper CP4/13*. UK: The Stationery Office. Available at: Accessed: 1.1.15.
3. Ministry of Justice (2014) *Transforming Youth Custody: Government response to the consultation*. UK: The Stationery Office. p.13 Available at: <https://consult.justice.gov.uk/digital-communications/transforming-youth-custody/results/transforming-youth-custody-consultation-response.pdf>. Accessed: 1.12.15.
4. Giroux, H. (1981) 'Schooling and the Myth of Objectivity: Stalking the Hidden Curriculum', *McGill Journal of Education*, 17: 282 – 304, p.284
5. See Lanskey C, (2014) Up or down and out? A systemic analysis of young people's educational pathways in the youth justice system in England and Wales. *International Journal of Inclusive Education*. DOI: 10.1080/13603116.2014.961675.
6. See Lanskey, C. (2011) 'Promise or compromise? Education for young people in secure institutions in England', *Youth Justice*, 11(1): 47–60.

example, in one STC they had the chance to take part in special activities — camping and outdoor pursuits — linked to the Duke of Edinburgh scheme.

For some young people, the education they received in custody was transformative. Often the classes in the YOI or STC were the first experience of formal education in a long while. Their learning successes gave them a sense of accomplishment: *'I've got more qualifications since I've come to prison than I gained on the out'*. They appreciated its relevance for their life after custody: *'I gotta admit I have gained something from coming here ... because if I didn't get that painting qualification I'd be outside doing exactly what I was doing all for the past two, three years, sitting down the shelters, getting drunk, smoking drugs and wasting my time. Now I'll be able to get a job and I'll be able to spend my time doing something and getting paid money.'*

There were other young people, however, who were less convinced by the education they received. They found the daily routine monotonous: *'you do get bored with doing the same stuff every single day. Waking up, going to school ... it really is the same stuff everyday.'* For many of these young people the educational provision they had access to was not sufficiently challenging: *'The education is rubbish in here. They just make us do like easy work which I've done like in Year 1.'* For others, the work was repetitive: *'To me it's not (useful) because I've already done it, so I'm just covering everything again.'*

Experiences of the classroom environment indicated to young people the extent to which the establishment took their learning seriously. Some found the environment conducive to study: *'Everyone was sitting down to do work so I thought ... well, at least, if everyone else is doing work, I might as well do work.'* They got on well with their teachers and enjoyed the class activities. Others however described lessons in which little was achieved because young people used the occasion to catch up socially and the teacher could not maintain order: *'if you get everyone talking you don't get nothing done, innit? And you can do your own work but at the end of the day if you can't even hear what the teacher's telling you, like you can't do nothing can you?'* These young people's expectations of education were low: *'not a lot of people learn in education ... 'cos you just go there, fight, muck about, just... You can't learn... it's jail, it's not like school'.*

Other limitations related to the quality and availability of resources for learning were further indicators to the young people of the institutional commitment to their education. Although on paper the range could look interesting, access in reality could be different. In some cases education classes did not take place because there were not

enough staff. Young people felt aggrieved that their experience of custody was made less tolerable by the failure of the establishment to deliver what it claimed to: *'I think [this] is a poor quality jail because we ride too much bang up and the staff always say there are not enough staff.'* Sometimes the frequency of the opportunities was limited so that only a small number of young people could attend: *'you've got clubs during the week ... which are good... but ... you'll be lucky if you get one anyway because there's so many people putting their name down every week'*. Through these disappointments, young people learned that there was a discrepancy between what was presented and what they had access to in practice.

Young people were also conscious of broader systemic issues which affected their education; the court's decision to send someone to custody for a short period of time, for example could be problematic: *'I was looking forward to doing GCSEs and stuff but because I've got a short amount of time here really, there's no point in it.'* Through the perceived effects of criminal justice decisions on their academic or vocational progress young people were learning tacitly about the value the criminal justice system as a whole placed on their formal education.

For some young people in these two research studies therefore, education in custody was innovative, enhancing, meaningful, engaging. They had opportunities they had not had previously to either catch up on what they had missed or to gain new knowledge and skills. For others there was little sense of formal learning taking place: the curriculum was not engaging, resources were limited and classrooms were primarily places for socialising. These diverse experiences could be found within the same establishment because teaching approaches, learning methods and the needs and aspirations of the young people within them varied. Through the range of courses available (in practice as opposed to on paper) and the quality of its delivery, young people learned the extent to which staff, the establishment and the criminal justice system as a whole were committed to their personal development.

Informal Learning in Custody

The messages young people received about their present and future potential as members of society through the formal educational provision in the secure setting were reinforced or diluted through their informal learning in other spaces within the establishment. From the 'hidden curriculum' young people learnt not only lessons about how they were valued, but also developed their own views about the legitimacy of the establishment as a place of detention. In the young people's view, such learning could have longer-

For some young people, the education they received in custody was transformative.

term consequences.

Lessons about personal worth: safety

The secure establishment's ability to keep young people safe and its concern for their welfare were two significant dimensions of their informal learning. The experience of custody for many of the young people in the research studies was permeated by fear and anxiety and they soon learnt the extent to which they could rely on the establishment to keep them safe. Arriving at the establishment was a time of heightened uncertainty.⁷ Many of the young people in the studies said they were fearful of what lay ahead and sensed apprehension towards themselves too on the part of staff and the other young people they came into contact with:

When you first arrive you don't know what to expect ... I hadn't been to prison before, so I was expecting the worst ... people to just start on me because I'm new or something like that. And the guards that don't know what to expect from you, and some of them are just a bit paranoid. And you're a bit paranoid because you don't know what the guards are gonna be like to you. So it just creates a little bit of tension.

Everyone used to look at me. I [thought] ... oh god, I want to get home.

Although the rules of the daily regime of institutional life became clearer, young people were faced with uncertainty throughout their time in custody as new people arrived. Some of the newcomers came in 'acting tough'. Others arrived to find rivals from the community outside: 'my boy got killed ... [and] the boy that did that came to prison ... and he got put on this unit'. As a consequence, the arrival of a new young person often signalled the potential for conflict: 'There are loads of fights, but that is the new people'.

There were numerous occasions when fights between young people could happen: during association/social time, on the way to activities, in education, in the showers (in the YOIs), or at meal times. One person might be targeted by others or a dispute might flare up over seemingly small events: whose turn it was to play table tennis, a misunderstood comment or look. Some people did not feel safe: 'I don't think there's enough safety ... people can fight just like that'. While there were frequently times when life was settled on the wings or units, there was always the potential for disruption: new young people arrived, staff moved on, there were changes in the moods of those who were there.

The volatility of life in the STCs and YOIs generated different responses. Some young people withdrew from as

many social activities as they could, adopting a 'keep head down and hope' policy. They would stay in their rooms and sleep for most of the day. Others looked for friends who would provide support and a small number looked to the staff. On some occasions young people felt the staff provided the support they needed: 'If you have any problems they listen to you and then make something happen straight away. If somebody is like hitting you or bullying you they make sure something happen'. However, others found this could be a risky strategy: 'If you go to a prison guv... sometimes the other boys make it worse ... If the person finds out that you've gone to the guv, even the people that wasn't involved, they get involved just to say like 'Why? Why did you go to the guv?' In these environments, young people learnt that their personal safety was at risk and the establishment could not always be relied upon as a safeguard. As one young man said: 'you have to keep watching your back'.

Lessons about personal worth: welfare

Young people learnt how much the establishment was concerned for their welfare partly through the conditions of custody and the regimes that were designed for them. Most young people in the STCs appeared to be satisfied with their living conditions and some expressed appreciation at having a room of their own and three meals a day. In the YOIs there were many more negative comments about the living conditions: the cleanliness of the cells, the condition of the prison clothes, the quality and quantity of the food, the lack of a constant supply of fresh drinking water. Moreover, when equipment was broken it took a long time to repair and people gave examples of having to endure cold nights sleeping in their coats because window catches were broken or not being able to shower before a court appearance because the showers were out of order. Sometimes support services were slow — healthcare or unit staff took a long time to respond to requests for help and other times, the length of time it took to process requests could mean they missed out on what they were entitled to: 'I should be getting about three visiting orders like a month or something like that, but when you've gotta get like the SOs to sign it and whatever it don't really go out in time so ... sometimes you get two ... It depends how ... fast it gets done.'

However, young people learnt most about the extent to which their welfare was a priority from their interactions with staff. Unkind or thoughtless responses were remembered vividly. One officer had told a young man in front of others that he had wet his bed. Another had not allowed a young man to get the hot water he needed to make his supper: 'I'm going 'I need to get some hot water' and he goes 'No'. And he just shut my door. So I went without food all that night just because of that one guv.'

7. Harvey, J. (2007) *Young Men in Prison: Surviving and Adapting to Life Inside*. Willan.

Yet, for many of the young people the support and compassion they received from staff was the most humane part of their experience of custody. Comments showing that staff were concerned for their welfare were highly appreciated: *'They say 'Goodnight' and 'How are you? Are you all right?' stuff like that ... those little tiny things.'* Some young people said this was the first time they felt anyone had been there to help them and they gave examples of when staff had gone to considerable effort on their behalf, such as phoning up a family member to inform them of the young person's unhappiness and arranging a visit. The opportunity to have a good laugh and a joke with staff or just to chat about everyday things was part of what made the time in custody bearable for some: *'they are very nice to talk to — to free your mind'*. Through these displays of kindness and empathy young people learnt that they could trust and seek help from those in authority.

Lessons about the legitimacy of authority

The importance of perceived legitimacy of authority for maintaining order in prisons is well-documented.⁸ Its relevance in custodial establishments for young people in custody was equally clear. As indicated above, young people developed a perception of the fairness and effectiveness of the staff use of authority. They were quick to identify practices and behaviours by staff that seemed unjust or not befitting their role. The young person above who was denied hot water seemed resigned: *'what you came to expect', being in custody: 'I'll just have to like deal with it won't I? ... he's the guy, we're prisoners'*. However, a sense of being treated unjustly could have more direct negative consequences: *'The guys have bad days and things and you don't know what's wrong with them. A simple thing like walking to the cell a bit slowly because you've got something in your hand or whatever and they give you an IEP (sanction) for no reason. I get a bit angry and I get wound up and start doing things I ain't meant to do.'*

Some young people commented openly on the extent to which staff acted as role models of authority and what they learnt from their observations and interactions with them. They noted when authority was used inappropriately: *'They take away things that they shouldn't and give you things that they shouldn't'*. They were also aware of the mixed messages about behaviour young people were picking up from the way staff acted: *'The staff are swearing ... if they're gonna dock you points for swearing I should*

hope they're not gonna be swearing' and from the way they reacted to young people's behaviour: *'[The staff] tell you, it's not good to use physical violence, you can speak about things here, you can ask for things, you don't need to shout. But then you ask and nobody hears you. And you ask again and still you get ignored and then you start screaming and shouting and throwing things around and everyone will be listening...'*. The learning points from such experiences were clear: *'It's like you get a lot worse punishment when you're good ... so people might as well think, 'well, I'll mess around then... because I'll get it easier.'*

Many young people in custody accepted the normality of staff use of force in order to exert control but saw little value in it. Some adopted a 'don't care attitude' and claimed physical restraint had little effect on them. Others felt the use of physical restraint made them more angry which had a negative impact in the longer term: *'All that happens is*

they get PCCd and taken to their room and that don't really teach them anything because then they'll just have more anger at that person'. These observations could lead to a general view of the establishment's effectiveness: *'so I don't see how they can call it a secure training centre 'cos it don't really train you in anything to do with like your attitude towards people or ... the way you treat people.'*

The extent to which young people felt their views were taken into account was an indicator of the respect they were given by the

establishment and arguably had broader implications for their views of the legitimacy of authority.⁹ In some settings there were formal mechanisms through which young people could express their views, for example, learner voice discussion groups and young people's councils. These were well received when they clearly led to improvements to young people's time in custody. Perhaps more important, judging from the young people's comments, were the opportunities for informal dialogue to resolve the tensions, disagreements and conflicts in the everyday life of the establishment.

Young people were appreciative of those staff who were able to handle situations of conflict through dialogue. One young woman compared the differences in approach between two STCs she had attended. In the one she was physically forced into her room and left alone and angry with the matter unresolved. In the other, staff had gone into her room and discussed the issue with her and drawn it to a conclusion: *'they'll stick you down and talk to you in your*

... for many of the
young people the
support and
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was the most
humane part of their
experience of custody.

8. Liebling, A. with Arnold, H. (2004) *Prisons and their moral performance: a study of values, quality and prison life*, Oxford: Oxford University Press; Sparks, R., Bottoms, A. E., and Hay, W. (1996) *Prisons and the problem of order*, Oxford: Clarendon Press.
9. Bottoms and Tankebe, 2012.

room. They won't just lock the door and make you go mental in your room [and] smash everything up ... 'Cos [in the other establishment] they just lock you in your room ... and then you just go mad.' One young man in a YOI described how he and a member of staff had been able to discuss their differences and resolve a problem by sitting down and talking it through. He valued the honesty of the exchange: *'When I first came here I was having a problem with this one guy and I made loads of complaints about him. And since then ... we've worked things out. And just had a little chat. I told him 'I respect you, yeah, so why do you not respect back? Why are you trying to like treat me like some little kid? ... I'm being mature to you. So why should you try and be like a bit immature to me?' ... He was just like 'That's true, but ... the attitude I'm getting from you is that you think that you're a big man'. And that's what I was trying to say to him 'I don't really think that. I'm just trying to, like, be me in a way that you get me'. 'Cos I said it to him and since then like we've just gotten along.'*

Young people's informal learning experiences thus varied between and within the different establishments. Poor conditions, whether due to inertia in getting repairs, what Sykes refers to as 'the principle of bureaucratic indifference' (1958:291) or to under-funding or lack of resources, were interpreted as a lack of concern for their welfare. By far the most significant factor influencing the young people's perceptions of their treatment were the attitudes and behaviour of staff. It was often the small exchanges, the acts of kindness or unkindness that had the greatest impact on young people's perceptions of custody and the legitimacy of the custodial authority.

Informal Learning Outcomes

It is difficult to establish the longer-term effects of such informal learning in custody but some young people spoke about consequences they perceived both in terms of their view of themselves and their interactions with others. Those who felt the custodial authority was unfair or ineffective in its moral purpose, viewed the outcomes as primarily negative:

To me prison don't learn, make you learn how to be better. It makes you learn how to be sneakier ... not getting caught again. So prison makes people lethal.

This place is like a broken down children's home. It is not helping anyone. If anything it makes things worse ..

If [the guys] tell you to do this, you do it or you get lost like. You learn that. OK you're not invincible

... but when you get back on road, yeah, you just take your anger on someone else. Right. You won't have learned... it's not really better.

However, when a young person found the support and care that they needed, the experience could be transformative: *'I came here and (it) made me realise that I am a caring person and I do care for people ... whereas before it was like I was fighting it, because I didn't want to let my guard down and make myself vulnerable to people.'* These young people's comments, negative and positive, suggest the potential effects of their experiences in the present for their interactions in the future. Adverse experiences of authority were associated with feelings of anger and injustice which, they felt would negatively affect their interactions with others on leaving. In contrast, positive experiences were associated with an optimism about their future and a lasting regard for those in authority who had treated them decently; some young people said if they came across these members of staff 'on the out' they would go over and shake their hand.

Conclusion

The narratives of the young people in the two studies illustrate the conflicting messages they received when in custody. Young people could have personally enriching experiences but they could also experience poor, rough and inconsistent treatment. All of these experiences are 'educational' in the broader sense and it is relevant to consider the effects of such inconsistency. Are young people learning that those in authority are committed to their personal development and social integration? Or conversely are they being taught that authority is not to be trusted or respected?

Their comments suggest that when we are thinking about custodial establishments as places of education, we need to be mindful of what the young person is learning through informal as well as formal channels. Through their collective encounters in the secure setting, inside and outside the classroom, young people learn the extent to which they are valued as present and future members of society. This broader perspective on education positions all members of staff in secure settings as educators, not just those who are formally designated as such. The research also indicates that acknowledging and responding to the views and feelings expressed by young people is not only relevant for understanding the learning that is taking place in custody (either by design or default) but also for shaping their views of the legitimacy of the custodial authority and arguably their broader sense of allegiance to the society that deprived them of their liberty.

Supporting looked after children and care leavers in the Criminal Justice System:

Emergent themes and strategies for change

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Setting the Scene

The challenges of supporting looked after children and care leavers in the criminal justice system must not be underestimated.¹ Whilst the majority of children in care do not commit criminal offences, those who have been in the care of the state remain disproportionately represented in the justice system and this has long been the case.² The offending rates of children in care are around 4 times higher than those of all other children, with 5.6 per cent of looked after children aged 10 — 17 receiving a conviction, final warning or reprimand during the year ending 31 March 2014.³ Meanwhile a third of young males in prison custody have previously been in care,⁴ and the same survey found that 9 out of 16 girls in custody had also been in care, highlighting the even greater over-representation of females.⁵

Yet, less than 1 per cent of the population ever enter the state care system. The vast majority of children and young people are drawn into the care system because of 'abuse or neglect' accounting for 62 per cent of children in care in 2013. These findings challenge the more frequently assumed category of 'socially unacceptable behaviour' which accounted for just 2 per cent of children in the same year.⁶ There are clearly methodological difficulties in identifying the precise points at which disproportionality occurs in the criminal justice system. It is with this in mind that we pursued a collective response through the development of multi-agency workshops with key

stakeholders. Some of the emergent themes from these events are highlighted below.

Analysis of the personal, social and criminogenic needs of care leavers in the criminal justice system illustrates that they are more likely to experience a range of problems, which serves to exclude them from participation within mainstream society.⁷ For example, when compared to the generic offender population, the needs of care leavers emerge as more pronounced, particularly in relation to accommodation, education, training and employment, relationships and emotional needs.⁸ Yet the accumulative effects of (negative) care experiences with accompanying socio-economic problems can merge to construct care leavers as problematic, 'risky' and therefore undeserving of supportive criminal justice interventions. Furthermore, once in the criminal justice system their previous status as vulnerable and in need of support, becomes renounced for that of the risk-posing offender requiring management or containment. From the outset then, we acknowledge there is a clear tension in how the agencies of the criminal justice system should respond to the 'needs' of those with care experience within a system largely concerned with risk assessment and risk management.⁹

Paradoxically, under relevant legislation, looked after children and care leavers in the criminal justice system, including those in custody, have various entitlements. For example, those care leavers identified as 'relevant' or 'former relevant' young people under the fairly restrictive definition of the Children (Leaving Care) Act 2000 are entitled to be kept in touch with by their local authorities, as well as to

1. In this article we define looked after children as those under the age of 18 who are currently in the care of the local authority subject to a full care order under section 31 or looked after by voluntary agreement under section 20 of the Children Act 1989, including those in residential, foster and kinship care in England. Meanwhile, care leavers are broadly defined as those aged 18 and above which includes those who may still be receiving a service under the rules of the Children (Leaving Care) Act 2000, as well as those who are living independently and may have left care some years ago.
2. Taylor, C. (2006) *Young People in Care and Criminal Behaviour*, Jessica Kingsley.
3. Department for Education (DfE) (2014a) *Outcomes for children looked after by local authorities in England as at 31 March 2014*, SFR 49/2014, DfE.
4. 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: HMIP.
5. See also HM Inspectorate of Probation (2014) *Girls in the Criminal Justice System A Joint Inspection by: HM Inspectorate of Probation, Care and Social Services Inspectorate Wales, Care Quality Commission, HM Inspectorate of Constabulary, HM Inspectorate of Prisons and Ofsted: HM Inspectorate of Probation*.
6. Harker, R. & Heath, S. (2014) *Children in Care in England: Statistics*, SN/SG/4470, House of Commons Library
7. Fitzpatrick, C. & Williams, P. (2014) *Examining 'Clear Approach': An intervention for care leavers on an intensive alternative to custody order: Report by Lancaster University and Manchester Metropolitan University for the Care Leavers' Association*.
8. Ibid n.7.
9. Hudson, B. (2003) *Justice in the Risk Society: Challenging and Re-affirming 'Justice' in Late Modernity*. Sage.

have, amongst other things, a personal advisor and a 'pathway plan' which is maintained and reviewed.¹⁰ Yet all too often those who have previously been in care are an 'invisible minority'¹¹ in the criminal justice system.

This has been highlighted particularly starkly by recent deaths in custody, including the death of 17 year old Ryan Clark who took his own life in Weatherby Young Offender Institution (YOI) in April 2011. Ryan had been in care since he was 16 months old,¹² and the inquest into his death in January 2014 found that a series of failures contributed to Ryan's death. Firstly, the extent of his vulnerability was not picked up on from relevant documents. In addition, not all support that could have been available for him was provided — including the personal officer scheme, where an officer is allocated to a young offender on arrival in custody to provide support. Furthermore, the YOI's scheme to address bullying and intimidation was ineffective.¹³ The inquest heard from Jane Held, Independent Chair of Leeds Safeguarding Board, that the system failed Ryan as a 'looked after' child. She said that during the last 12 months of his life, there was no single consistent professional responsible for him, his housing situation prior to his remand was dire, his care plan was insufficient, and he was treated as 'troublesome' rather than 'troubled, vulnerable and emotionally damaged'.¹⁴

The tragic suicide of 15 year old Alex Kelly at HMYOI Cookham Wood in January 2012 raises some disturbingly similar issues, particularly relating to the sharing of information about individual vulnerability. Alex had been living with foster carers since 2002, and the serious case review into his death¹⁵ highlighted various failures in communication between relevant professionals.

*'The most significant weakness in Child F's case was in the working relationship between the health service, the mental health service and prison officers in the YOI. If mental health practitioners had been aware of and taken proper account of the behaviour described in the records of custody staff it is likely that they would have assessed Child F's risk of suicide and self-harm as being much higher' (2013:5.81).*¹⁶

Whilst deaths in custody obviously represent the extreme end of what can happen when things go wrong for

children in care and care leavers, they nevertheless raise a number of important issues that are relevant to many of those in prison today¹⁷ with a care experience. As the Harris Review into self-inflicted deaths of young people in custody has recently concluded,¹⁸ urgent and radical change is now required in order to improve the experiences of vulnerable young people.

Durable problems, practitioner concerns and emerging themes

...(I)n foster care I wasn't getting that much in trouble, but in care homes you get in more trouble, say if like you smashed a glass or whatever, they get you done for criminal damage and that's where it starts, your criminal record.

(Joe, aged 24)

I've had bad things done to me on the streets, where I've nearly been raped myself...People don't see what's actually happening on the streets...The people who don't have no families or people who are getting abused at home, badly abused, they're all in town, and they get mixed up with each other and they're getting forced into doing stuff like selling drugs and selling themselves to live to survive...Or getting sent to prison because they're scared of people on the streets...It might sound stupid, but people feel safe in prison. You've got three meals a day, you've got telly, you've got people what are going to watch you and make sure you're alright.

(Jake, aged 23)

Although not a central focus of this paper there are a number of challenges in ascertaining the precise points at which care leavers come to the attention of the criminal justice system. The quotes above come from interviews with care leavers supervised on an intensive community order which we discuss further below.¹⁹ What is clear is that many vulnerable young people still slip undetected through the 'gaps' of agencies and organisations that have a statutory responsibility to support those who have been in care. Indeed, work with 'looked after children' and care leavers within the criminal justice system over recent years has

10. Children (Leaving Care) Act 2000, <http://www.legislation.gov.uk/ukpga/2000/35>

11. Coyne, D. (2015) Effectively Abandoned: Care leavers in the Criminal Justice System, The Care Leavers' Association.

12. Leeds Safeguarding Board (2015) Serious Case Review in Respect of Ryan Clark (Child V): Overview Report, Leeds Safeguarding Board.

13. Puffett, N. (2014) 'Ryan Clark verdict highlights youth custody failings', Children & Young People Now, 29 January 2014.

14. Ibid n.13.

15. Tower Hamlets Safeguarding Children Board (2013) Serious Case Review Executive Summary, Services provided for Child F, June 2004 – January 2012, Tower Hamlets Safeguarding Children Board.

16. Ibid n.13.

17. See also INQUEST (2015) Stolen Lives and Missed Opportunities: The deaths of young adults and children in prison. A report for The Barrow Cadbury Trust.

18. The Harris Review (2015) Changing Prisons, Saving Lives: Report of the Independent Review into Self-inflicted Deaths in Custody of 18-24 year olds, Cm 9087.

19. Ibid n.7 (see p.2 of the report for a discussion of methodology).

highlighted a number of reoccurring and durable problems which hinders effective practice.²⁰ It is with this in mind that we initiated two multi-agency roundtable discussions in Lancashire which were designed to place the issues facing children in care and care leavers in the criminal justice system firmly on the policy and practice agenda. These events took place in the autumn of 2014 and the spring of 2015.²¹

The two workshops brought together a total of 49 stakeholders from a range of relevant organisations from across the North West and beyond. These included: Children's Services, Youth Justice, the National Probation Service, Cumbria and Lancashire Community Rehabilitation Company, HM Prison service, The Magistrate's Association, the Police, Barnardo's, Child Action North West and The Children's Society. It was significant that the events included representatives from agencies and organisations with responsibility for care leavers and looked after children. That the events were developed in a spirit of collective responsibility, rather than the allocation of blame, facilitated a collegiate response to the subject.

A number of key themes and challenges emerged as a result of our discussions, and in the space available below, we focus on two of these key themes — that of identification and promoting a cultural change. It is important to note that the challenges we discuss are not particular to the North West but relevant to criminal justice organisations and institutions across the country.

From the outset, a reoccurring problem is how to identify looked after children and care leavers in custody and the community, so that criminal justice workers can ensure that these vulnerable individuals receive the support to which they are entitled. Whilst the development of official NOMS practice guidance²² on working with care leavers has enabled the government to suggest in its one-year update to the Care Leaver Strategy that this is an issue that has now been dealt with,²³ the reality is that identification remains a real challenge for some key stakeholders. This was a key theme to emerge throughout our multi-agency discussions where it was noted for example that identification in the secure estate is 'not fit for purpose'. The Harris Review recently referred to the serious 'disconnect between what those in charge think should be happening and what is

actually happening'²⁴ and this can similarly be seen to apply in the case of identifying, and then supporting, those in the criminal justice system who are, or who have previously been, in care.

Furthermore, recent research by two of us on a pilot project for care leavers supervised in the community on an Intensive Alternative to Custody (IAC) order has highlighted some of the difficulties surrounding the identification of care leavers in a probation service context.²⁵ During interviews with practitioners, it was found that care leavers were often perceived as a particular risky client group. This was partly due to the complexity of personal, social and criminogenic need that some care leavers present with and more significantly a lack of practitioner knowledge/understanding about care issues.

Cos if I'm honest I knew nothing about this as an agenda item until I spoke to Jason about care leavers — we didn't even capture this as a piece of information with our clients.

(Stakeholder 10²⁶)

From the outset, a reoccurring problem is how to identify looked after children and care leavers in custody and the community...

In addition, the problem of identification was compounded by the fact that some stakeholders felt fearful and somewhat ill equipped to raise the 'care' question in the first place (in other words, trying to identify care leaver status). This was due to concerns over whether previous experiences of abuse, or a

'can of worms' as articulated by one practitioner in interview, might be disclosed which already over-stretched practitioners would then be obliged to respond to.

A further issue relates to the extent to which a young person with a history of being failed by state control systems is confident in the practitioner's competence to understand, acknowledge and then to appropriately respond to disclosures of care. The failure of practitioners to ask the care question and their lack of awareness of the entitlements of those with care experience may serve to reaffirm the young person's lack of belief in the practitioner and thus undermine the supervision process. This raises the important issue of training, and delegates at our workshops highlighted that there was a real need for key stakeholders to receive sufficient training about the needs and entitlements of

20. Ibid n.11.

21. These events were hosted jointly by Lancaster University and The Care Leavers' Association, and we are grateful to the Lancaster University FASS Enterprise Centre for funding these events.

22. NOMS (2013) Practice Guidance: Working with Care Leavers (18-25), in custody and the community, to reduce reoffending and promote effective transition to adulthood, London: NOMS.

23. HM Government (2014) Care leaver strategy: One year on progress update, October 2014. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368235/Care_Leavers_Strategy_update.pdf

24. Ibid n18, page 10.

25. Ibid n7.

26. Ibid n7, page 15.

looked after children and care leavers. A lack of knowledge (and sometime confidence) in dealing with care issues was highlighted as an issue not just for practitioners within the secure estate, but also for magistrates in the court room and those working in probation. Questions were also raised about the issue of multi-agency working and data sharing. Where looked after child or care leaver status is identified, to what extent is this information then shared across relevant organisations?

The needs of care leavers was a key area of discussion during our roundtable events, where it was suggested that the identification of needs must be led by the young person. However, young people also need to know what leaving care support they are entitled to in the first place, and who to speak to if they do not get it. Having a named person to support a young person through the leaving care/criminal justice process could help with improving transitions and building consistent and trusting relationships. Yet there are challenges here too, not least in finding appropriate accommodation for vulnerable young people who may have complex needs. The age of 18+ was identified as a 'cliff edge', with many having urgent housing needs. Yet this is true for some 16 and 17 year olds across the UK²⁷ who continue to be housed in unsafe and completely inappropriate accommodation.²⁸

Returning to the issue of identification, it is essential to consider if looked after child or care leaver status is identified, what action is then taken as a result of this information? In other words, is the care question simply perceived as part of a wider data collection/monitoring exercise or does it actually have real-world consequences, (that go beyond demonstrating the existence of a 'care to prison' pipeline²⁹)? This raises the question of what specific interventions are available, and different approaches to engaging and working with looked after children and care leavers. In theory, data monitoring should be used to inform the type of intervention that the individual under supervision should undertake. Where there are no interventions, then data monitoring becomes a simple tick-box exercise. However, the offensive nature of purely 'tick-box approaches' needs to be challenged. What is the point in identifying someone's care status without being able to offer some level of support?

Strategies for change

The durability of the problems encountered by care-experienced individuals within the criminal justice system

illustrates a resilience to (policy) change. The barriers which hinder the identification and resolution of these problems allude to the need for a more systemic and cultural shift in the constructs and perceptions of looked after children and care leavers. As suggested at the outset of this paper, responding to the 'needs' of vulnerable individuals within a risk-obsessed criminal justice system is perhaps the most impenetrable of the themes to emerge from practitioners.

Yet there are ways of providing support. For example, the Barnardo's advocacy service for children and young people in the secure estate³⁰ is a national programme that aims to represent the views, wishes and feelings of all children and young people locked up. Meanwhile, in the North West of England there is emerging evidence that specific and targeted support programmes for care leavers within the criminal justice system are empowering and supportive to the individuals involved.³¹ Our research on the pilot phase of the 'Clear Approach' intervention for young males aged 16 — 25 on an intensive community order included interviews with six care leavers.³² Clear Approach is designed to be an empowerment programme where looked after children and care leavers have the opportunity to engage (on a voluntary basis) in one-to-one sessions as well as group work in order to explore the relationship between care and offending.³³

The intervention takes place across a ten week period and has the dual aim of offering emotional support and advocacy, whilst also offering to practitioners very specialist (almost paralegal) support. Clear Approach aims also to ensure that young people are aware of their rights and entitlements under the Children (Leaving Care) Act 2000, and receive the support that that they are entitled to. In terms of outcomes, one 19-year old participant gained access to the leaving care worker that he was entitled to, as well as receiving a leaving care grant of over £1600 as a result of his involvement in the intervention. Another found voluntary work experience as a result of his involvement in the project. Others described valuing the chance to talk and particularly the user-led focus of the project.

I like it yeah, forces out my confidence, because before I done care leavers' group...I had no confidence.

(Jake, aged 23)

Because he [CLA worker] knows what we're talking about...'Cos if say no one's been in care and you're talking to them, they don't know how

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27. CELCIS Inform (2015) Housing Options and Care Leavers: Improving Outcomes into Adulthood, A Centre for Excellence for Looked after Children in Scotland (CELCIS) Briefing (July 2015).
28. Abrams, F. (2015) Care leavers placed in 'unsuitable' accommodation, BBC News, <http://www.bbc.co.uk/news/education-32954649>
29. Blades, R., Hart, D., Lea, J. & Wilmott, N. (2011) Care – a stepping stone to custody? The views of children in care on the links between care, offending and custody, London: The Prison Reform Trust.
30. For further details, see [http://www.i-hop.org.uk/app/answers/detail/a_id/559/~barnardos-advocacy-service-\(secure-estate\)](http://www.i-hop.org.uk/app/answers/detail/a_id/559/~barnardos-advocacy-service-(secure-estate))
31. Ibid n.11.
32. Ibid n.7.
33. 'Clear Approach' is an intervention developed and delivered by The Care Leavers' Association.

you feel and they don't know how it is in care 'cos they've never been in that situation. So...if someone else has been in care themselves, then obviously they'll understand where you're coming from. So that was pretty helpful as well.

(Joe, aged 24)

(I)t was important because I felt like he knew where I was coming from and that's something we need, like someone who's been through what we've been through so you can talk to them on a level.

(Max, aged 19)

For Joe and Max, the merits of the intervention were located in its capacity to reflect on personal experiences with somebody 'who knows what we're talking about'. Whilst these young men were being supervised on criminal justice orders in the community, it is arguable that there could be similar benefits for young people from user-led support in custody. Here, the use of peer to peer custody-based group mentoring could offer significant individual and group support to care leavers, with the focus on a user-led approach whereby those with previous experience of the care and criminal justice systems are trained as mentors. Where such approaches are underpinned by the principles of empowerment and self-determination,³⁴ peer mentoring has the potential to provide a 'safe space' for those care leavers, often lost in the criminal justice system, to realise their own life choices and understand past experiences. Facilitating individuals to frame and re-frame their own life story and to take ownership of it can increase self-esteem and confidence levels. The desistance literature clearly highlights this as an essential element of supporting offenders to become ex-offenders and make positive life choices,³⁵ assisting them in 'travelling more hopefully'³⁶ on the road to desistance.

Of course being 'user-led' alone is not enough and the benefits are not automatic.³⁷ Indeed, it is crucial that mentors have a body of knowledge that goes beyond personal insight, including knowledge about leaving care legislation and relevant entitlements. If this is used well it

...it is crucial that mentors have a body of knowledge that goes beyond personal insight, including knowledge about leaving care legislation and relevant entitlements.

can complement the user insight and inspire the collective to take ownership in pushing for change. Notwithstanding some of the challenges in recruiting and retaining mentors,³⁸ and obtaining the buy-in of custodial institutions to support a peer mentoring group, there is undoubtedly merit in considering this as a supportive strategy for care leavers. Trained mentors with the specific skills could also be employed in custody settings to offer practitioner training with offender supervisors, case managers and other relevant staff in order to assist with identification, risk management and support.

The types of interventions described above have obvious potential. Yet until practitioners and criminal justice resource brokers address the challenges of identification, through ascertaining care or care leaver status and recording and sharing this data between agencies, then such

interventions and support will be underutilised. This problem can only be resolved by getting relevant stakeholders and agencies to talk to each other, which is no easy task, but of crucial importance for individuals who move between a number of different state care and control systems. One outcome of the previously mentioned roundtable discussions is that we have established a new working group in Lancashire that aims to reduce the number of looked after children and care leavers in the criminal justice by sharing good practice, identifying gaps and working towards a multi-agency

focused action plan. Whilst there are inevitably challenges in ensuring that all relevant parties are sat around the table at each meeting, there is also a commitment from those who do attend to improve outcomes and ensure that those already in the criminal justice system are aware of their rights and entitlements. It is arguable that the very existence of such a working group can be of benefit locally and regionally in ensuring that the issues facing children in care and care leavers in the criminal justice system remain firmly on the agenda.

Final Thoughts: Promoting a cultural change

Rather than offer a definitive conclusion, we purposely finish now with some final thoughts. In fact, to offer a

34. One example of this is the 'Foundations' peer mentoring project developed by The Care Leavers' Association.

35. Maruna, S. (2001) *Making Good: How ex-convicts reform and rebuild their lives*, Washington D.C.: American Psychological Association.

36. Weaver, B. and McNeill, F. (2010) 'Travelling hopefully: Desistance Research and Probation Practice'. In: J. Brayford, F. Cowe and J. Deering (eds) *What Else Works?: Creative Work with Offenders*. Cullompton: Willan; 36-60.

37. For example, see Lushey, C.J. & Munro, E.R. (2015) 'Participatory peer research methodology: An effective method for obtaining young people's perspectives on transitions from care to adulthood?' *Qualitative Social Work*, 14:4:522-537.

38. Ibid n.11.

conclusion would be to imply that the issues we have raised above can be neatly dealt with. But they cannot. One of the key themes of this article is that the attitudes, challenges and problems that we have highlighted are enduring. They are persistent and perennial problems that require a sustained and consistent effort in order to be overcome.

In our view, vulnerable young people with experience of the care system ought to be diverted from the criminal justice system wherever possible, particularly given current concerns about the unnecessary criminalisation of some individuals in care for minor offences.³⁹ However, the strategies that we have suggested above aim to improve the support provided to those already in the criminal justice system, and potentially empower them. Yet there are other sorts of strategies too that involve changing the current system so that looked after children and care leavers are far less likely to find themselves in the criminal justice system in the first place. For this to occur, we believe that a cultural change is required in order to address the current lack of political will to address care and care leaver issues in a consistent and sustainable way.

In the space remaining, we wish to simply flag up two key strategies for change. Firstly increasing the minimum age of criminal responsibility so that we fall more in line with our European neighbours⁴⁰ — such an approach would not only be more consistent with the evidence on children's neural development and behaviour,⁴¹ but would also help to immediately reduce the numbers of children who can be formally involved in the justice system. Secondly, increasing the leaving care age to 25 would ensure that care leavers receive far less of a compressed and accelerated transition to independence in comparison to many of their peers in the

general population. This could also serve to reduce the continued failures by some local authorities to provide adequate and appropriate after-care support, whilst simultaneously reducing the number of pathways that individuals may take from 'care' to custody. With the National Audit Office's recent report⁴² concluding that services for care leavers have now deteriorated for seven consecutive years due to financial cuts and poor management, with many leaving care before the age of 18, contrary to the government's legal obligation, such a policy change is arguably long overdue.

The above recommendations might seem naively optimistic in the current political climate where a 'populist punitiveness'⁴³ prevails, yet in our view such optimism is greatly needed as is the cultural change that we speak of. Despite the pockets of good practice that do exist and can be found around the country, and despite the collective aspirations of the great majority of stakeholders at our multi-agency workshops to improve outcomes, there remains a persistent problem with stigma and stereotyping of care leavers in the criminal justice system. This is probably best demonstrated by the comments of a senior stakeholder from HM Prison Service at one of our recent roundtable events, who confidently announced to an audience that included a number of individuals with care experience, that in their view, 'care leavers lack empathy'! Such negative stereotypes undoubtedly perpetuate the damaging myths that those who have been in care must be viewed and treated as troublesome rather than as vulnerable young people in need. There can be little doubt that without a radical shift in such attitudes, the various challenges that we have outlined above will continue to endure.

39. House of Commons Justice Committee (2013) *Youth Justice: Seventh Report of Session 2012–13. Volume I: Report, together with formal minutes, oral and written evidence.* London: The Stationery Office.

40. Goldson, B. (2013) 'Unsafe, Unjust and Harmful to Wider Society': Grounds for Raising the Minimum Age of Criminal Responsibility in England and Wales, *Youth Justice* 13: 2: 111-130.

41. Delmage, E. (2013) 'The minimum age of criminal responsibility: A medico-legal perspective', *Youth Justice*, 13:2:102-110.

42. National Audit Office (2015) *Care leavers' transition to adulthood*, Department of Health, <http://www.nao.org.uk/wp-content/uploads/2015/07/Care-leavers-transition-to-adulthood.pdf>

43. Bottoms, A. (1995) *The Philosophy and Politics of Punishment and Sentencing*. In C.Clarkson & R.Morgan (Eds.) *The politics of sentencing reform* (pp. 17–49), Oxford: Clarendon Press.

Disabled Inside:

Neurodevelopmental impairments among young people in custody

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Childhood neurodevelopmental impairments are physical, mental or sensory functional difficulties that arise when the development of the brain or nervous system is significantly affected by problems related to genetics, birth trauma, illness, traumatic head injury, and/or severe nutritional or emotional deprivation.¹ Resulting difficulties may relate to:

- **Cognitive functioning:** acquiring, understanding and applying knowledge, including skills related to learning, memory, attention, evaluation, reasoning, and;
- **Emotional functioning:** regulating and expressing emotions, or understanding the emotions of others, and related expressions of withdrawal or anxiety, impulsivity, or difficulties in restraining emotional reactions;
- **Communication:** functions related to the comprehension and production of language, including speech, expressive language and receptive language.

Specific impairments are commonly experienced in combination, as clinically defined childhood neurodevelopmental disorders, described in the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5) as:

a group of conditions... [which] typically manifest early in development, often before the child enters grade school, and are characterized by developmental deficits that produce impairments of personal, social, academic, or occupational functioning.²

Such disorders include: learning or intellectual disability; specific learning difficulties, such as dyslexia; communication disorders; attention-deficit / hyperactivity disorder (ADHD); autism spectrum disorder; and fetal alcohol spectrum disorder (FASD). The key diagnostic criteria for each of these disorders are presented in Table 1.

Table 1. Prevalence of neurodevelopmental disorders⁵⁶

Neurodevelopmental disorder	Definition ⁵⁷	Prevalence rates among young people in the general population	Prevalence rates among young people in custody
Learning / Intellectual Disability	Deficits in: cognitive capacity (measured by an IQ score of less than 70); and adaptive functioning (significant difficulties with everyday tasks). Onset prior to adulthood.	2–4%	23–32%
Fetal Alcohol Spectrum Disorders	Permanent defects resulting from prenatal alcohol exposure due to maternal consumption during pregnancy, including: reduced height, weight, or head circumference; characteristic facial features; deficits in executive functioning, memory, cognition, intelligence, attention, and/or motor skills.	0.1–5%	10.9–11.7%
Communication Disorders	Problems with speech, language or hearing that significantly impact upon an individual's academic achievement or day-to-day social interactions. Includes: expressive and receptive language; speech sound disorder; and stuttering.	5–7%	60–90%
Attention-Deficit / Hyperactivity Disorder	Persistence in multiple symptoms of inattention and/or hyperactivity/impulsivity.	1.7–9%	12%
Autistic Spectrum Disorder	Qualitative abnormalities in reciprocal social interactions and communication, and markedly restricted repetitive and stereotyped patterns of behaviour and interests.	0.6–1.2%	15%

1. Patel, D.P., Greydanus, D.E., Omar, H.A. & Merrick, J. (eds.) (2011) *Neurodevelopmental Disabilities: Clinical Care for Children and Young Adults*. New York: Springer.
2. American Psychiatric Association (APA) (2013) *Diagnostic and statistical manual of mental disorders* (5th ed.). Washington DC: APA. Page 31.

The prevalence of neurodevelopmental impairment among young people in custody

Table 1 also illustrates the high prevalence of neurodevelopmental disorders among young people in youth justice custodial institutions, as consistently highlighted by research in various nation states and summarised in a recent review.³ Reviewing such a range of research can be problematic given the various definitions, measures, methods, populations and national contexts within individual studies. Nonetheless, in each case, the prevalence within such institutions appears disproportionate to rates reported by studies of comparable groups of young people in the general population. This sizeable body of research therefore suggests that large numbers of young people in custody have one or more clinically defined neurodevelopmental disorder. Furthermore the levels of need are even greater if we also consider those who may not meet specific clinical diagnostic criteria, yet experience very real and significant impairments. This is illustrated by a systematic review of research regarding experiences of traumatic brain injury (TBI)⁴, as summarised in Table 2.

Table 2. Prevalence of traumatic brain injury: summary of a systematic review⁵⁸

Nature of TBI	Prevalence rates among young people in the general population	Prevalence rates among young people in custody
Any head injury	24–42%	49–72%
Head injury resulting in loss of consciousness	5–24%	32–49.7%
Head injury resulting in loss of consciousness for 20 minutes or more	5%	18.3%
More than one head injury	9.2–12%	45–55%

Whilst TBI is not a neurodevelopmental disorder, it is associated with a wide range of related impairments in cognition, emotion, and communication, particularly where injuries lead to concussion, or when they occur at

key developmental phases. Again, individual studies vary greatly in their definition, methodology and therefore reported prevalence, but comparison to control groups or equivalent studies undertaken with young people in the general population consistently demonstrates a much higher prevalence of TBI in custodial populations. What is more, this disparity is seemingly more pronounced as the severity of the injury increases, and among those who have experienced multiple injuries. This disproportionate prevalence is echoed in evidence emerging from the recently introduced Comprehensive Health Assessment Tool (CHAT), now completed for all young people entering custodial institutions in England and Wales.⁵ In interviews undertaken with 93 young people in custody, 82 per cent reported experiencing at least one TBI, with 44 per cent reporting 'ongoing neuropsychological symptoms' as a result.

This weight of evidence poses fundamental questions about the failure of education, health and family support services to identify and meet the needs of young people with impairments so as to prevent engagement with the youth justice system.⁶ It warrants improved understandings of how specific impairments may be directly related to behavioural traits that, in certain contexts and situations, can increase the propensity towards aggressive or antisocial behaviour, and therefore criminality.⁷ It also calls into question the extent to which impairment is recognised and effectively responded to within youth justice systems, with various practices seemingly increasing the risk of criminalization of young people with neurodevelopmental impairments.⁸

Most pertinently to this article, it also illustrates that the youth justice custodial estate has become the primary service provider to a large number of young people with significant neurodevelopmental impairment. This suggests considerable challenges for practices and interventions within custodial institutions. In this paper, we reflect upon these challenges and offer reflections on their implications for practice reform. Using illustrative examples drawn from the wide variety of specific functional and behavioural difficulties associated with neurodevelopmental impairments that are likely to impact upon the experiences of young people in custody, we will consider the particular influence of impairment on:

- Hughes, N., Williams, H., Chitsabesan, P., Davies, R. & Mounce, L. (2012) *Nobody Made the Connection: The prevalence of neurodisability in young people who offend*. London: Office of the Children's Commissioner for England.
- Hughes, N., Williams, W.H., Chitsabesan, P., Walesby, R., Mounce, L.T.A. and Clasby, B. (2015) 'The Prevalence of Traumatic Brain Injury Among Young Offenders in Custody: A Systematic Review', *Journal of Head Trauma Rehabilitation*, 30(2): 94-105.
- Chitsabesan, P., Lennox, C., Williams, H., Tariq, O. and Shaw, J (2015) Traumatic Brain Injury in Juvenile Offenders: Findings From the Comprehensive Health Assessment Tool Study and the Development of a Specialist Linkworker Service. *Journal of Head Trauma Rehabilitation*, 30(2): 106-115.
- Hughes, N. (2015) 'I would build... comprehensive school and family support systems for young people with neurodevelopmental impairments', *Centre for Crime and Justice Studies Briefing Paper*, CCJS: London.
- Hughes, N. (2015) 'Understanding the influence of neurodevelopmental disorders on offending: utilizing developmental psychopathology in biosocial criminology', *Criminal Justice Studies: A Critical Journal of Crime, Law and Society*, 28(1): 39-60.
- Hughes, N. (2015) Neurodisability in the youth justice system: recognising and responding to the criminalisation of neurodevelopmental impairment, *Howard League for Penal Reform, What is Justice? Series*, Available at: www.academia.edu/15237699/Neurodisability_in_the_youth_justice_system_recognising_and_responding_to_the_criminalisation_of_neurodevelopmental_impairment

interactions with staff and fellow prisoners, particularly in relation to conflict, bullying and victimization; the ability to understand and follow prison rules or particular commands; and engagement with interventions, particularly those intended to alter behaviour. In doing so, we highlight the importance of effective screening and assessment.

The need for specialist and responsive interventions

Recognition of impairment and its influence on behaviour is essential in order to develop support services and interventions that are responsive to specific cognitive and emotional deficits. Young people with neurodevelopmental impairments typically have specific needs and learning styles that can affect an ability to engage in interventions intended to support rehabilitation or to address identified behavioural, educational or mental health needs. Recognition of these varied needs directly contradicts current use of generic approaches which assume typical levels of verbal and cognitive competence, and which those with atypical neurodevelopment struggle to adhere too. For example, research has suggested that individuals with a history of TBI may find it more difficult to engage with offence related rehabilitation due to information processing difficulties or disinhibited behaviour.⁹

Guidelines on how to support young people with specific neurodevelopmental disorders are already established and can be readily utilised, including, for example, those published by the National Institute for Health and Clinical Excellence regarding ADHD¹⁰ and autistic spectrum disorders.¹¹ Guidelines with specific reference to offending behaviour have also been developed. For example, NICE recently published advice regarding 'Challenging behaviour and learning disabilities'.¹² The Advocates Gateway also offer a range of toolkits for working with clients with neurodisability.¹³

There is also growing evidence of the efficacy of individual therapeutic approaches to address and manage aspects of the disorder and associated risk of offending; for example, adapted cognitive behaviour therapy¹⁴ and skills development using social stories and comic strip cartoons address emotional recognition and help develop coping strategies to manage stress and conflict.¹⁵ Additionally, Tonks et al suggest that programmes tailored for young offenders with a history of TBI may help reduce their vulnerability to depression, anxiety and negative behavioural outcomes in later life.¹⁶

Existing behavioural support programmes may need to be adapted to meet the needs of young people with neurodevelopmental impairments. For example, the Good Way model of working with young people who have committed sexual offences demonstrates the value of flexible approaches based on the 'intellectual functioning' of the individual.¹⁷ Marked success in working with those with learning disability is attributed to an approach that recognizes the inability to engage with and apply abstract concepts. Young people are therefore enabled to externalise the 'bad side' of their behavior, and to then choose between this and a 'good way' of behaving.

Similarly, Boland et al suggest the need 'to modify existing, well recognized programs in the areas of social and life skills, cognitive skills, substance abuse and anger management' when working with young people with cognitive deficits.¹⁸ Specifically they suggest that such programmes need to be 'simplified', 'made very concrete', delivered in 'regular daily' sessions but 'shorter in duration' and 'with frequent reviews' and opportunities for revision. Streissguth also highlights the need for such programmes to be run with very small groups, and preferably one-to-one.¹⁹

Young people with neurodevelopmental impairments may also require specialist educational support and intervention. Various neurodevelopmental disorders are strongly associated with difficulties in engaging in mainstream education, and these young

9. Williams, W. H., Cordan, G., Mewse, A. J., Tonks, J. and Burgess, C. N. (2010). Self-reported traumatic brain injury in male young offenders: a risk factor for re-offending, poor mental health and violence? *Neuropsychological Rehabilitation*. 20(6): 801-812.
10. National Institute for Health and Clinical Excellence (2008) *Attention deficit hyperactivity disorder: Diagnosis and management of ADHD in children, young people and adults*. NICE clinical guideline 72. London: NICE.
11. National Institute for Health and Clinical Excellence (2011) *Autism: recognition, referral and diagnosis in children and young people on the autism spectrum*. NICE clinical guideline 128. London: NICE.
12. National Institute for Health and Clinical Excellence (2015) *Challenging behaviour and learning disabilities: prevention and interventions for people with learning disabilities whose behaviour challenges*. NICE guidelines NG11. London: NICE
13. www.theadvocatesgateway.org/toolkits/
14. Hare D.J. and Paine C. (1997). Developing cognitive behavioural treatments for people with Asperger's syndrome. *Clinical Psychology Forum*. 110: 5-8.
15. Murphy, D. (2010). Extreme violence in a man with an autistic spectrum disorder: Assessment and treatment within high-security psychiatric care. *Journal of Forensic Psychiatry and Psychology*. 21: 462-477.
16. Tonks J, Yates P, Frampton I, Williams WH, Harris D, Slater A. (2011) Resilience and the mediating effects of executive dysfunction after childhood brain injury: a comparison between children aged 9-15 years with brain injury and noninjured controls. *Brain Injury* 25:870-881.
17. Aylard, L., & West, B. (2006). The Good Way model: A strengths-based approach for working with young people, especially those with intellectual difficulties, who have sexually abusive behaviour. *Journal of Sexual Aggression*, 12(2), 189-201.
18. Boland, FJ, Burrill, R, Duwyn, M and Karp, J. (1998) *Fetal Alcohol Syndrome: Implications for Correctional Service*. Correctional Services Canada.
19. Streissguth, A. P. (1997). *Fetal Alcohol Syndrome: A guide for families and communities*. MD: Pearl H. Brooks Publishing Company, cited by Boland, FJ, Burrill, R, Duwyn, M and Karp, J. (1998) *Fetal Alcohol Syndrome: Implications for Correctional Service*. Correctional Services Canada.

people are at elevated risk of extended periods of disengagement from school. This may be because of a learning disability or specific learning difficulty. It may also be because of difficulties understanding and engaging with the expectations of the classroom, as in the case of young people with FASD who can experience difficulty translating verbal directions into action, or understanding rules such as putting up of hands or sitting still when feeling the need to move around the classroom. Again, a misunderstanding of the basis of this behaviour can lead to its interpretation as wilful noncompliance, rather than indicators of impairment. Similarly a variety of symptoms associated with ADHD can inhibit functioning in the classroom. Impulsivity, poor capacity for attention, and hyperactivity can all 'hinder [the] ability to acquire crucial skills such as focusing on teachers, interacting with peers and authority figures, and learning emergent literacy, mathematics and language', while associated executive functioning deficits are found to cause 'problems with memory, reasoning, [and] conceptual development'.²⁰

Bespoke or tailored interventions are also required regarding rehabilitation and transition out of community and into the community. Young people with impairment must be supported to develop the social and life skills and coping mechanisms necessary to manage their impairment and its influence on behaviour, so as to avoid recidivism. This might include managing issues that directly impact upon the likelihood of further offending. For example, ADHD is characterised by a combination of symptoms, including impulsivity, which can be expressed as impatience, sensation-seeking, or an inability to restrain an emotional reaction.²¹ Such behavioural traits can increase the likelihood of spontaneous anger or aggression, and young people therefore need to develop the means to manage such feelings. Similarly executive functioning deficits associated with abstraction can lead to difficulties understanding the perspectives of others or the potential consequences of actions.²² Specific cognitive skill training may therefore be needed.

Practical life skills may also be needed to counter indirect risks of future offending. For example, Boland et al highlight the importance of addressing any difficulties that may impact on an ability to live independently,

including 'problems handling money' or 'paying bills', engaging in education, or in acquiring or holding on to employment.²³

The need for such support is recognised in the development of the linkworker role, supporting young people with a history of TBI in HMP Leeds, HMYOI Wetherby and HMYOI Hindley.²⁴ The linkworkers develop personalised support programmes to address particular problems arising from the brain injury, such as with anger management or poor memory. They also support the young people to more effectively engage with generic rehabilitation programmes within the custodial institution, and therefore provide support to other staff working with the young person. Finally the linkworkers also provide support in accessing community services upon release.²⁵

Understanding the influence of impairment on behaviour and day-to-day interactions

Awareness of the prevalence of neurodevelopmental impairment among young people in custody supports the development of day-to-day practices that do not assume cognitive and communicative competence or understanding of procedures, and therefore support better engagement, whether an impairment has been formally diagnosed or not. For example, impaired social or pragmatic communication skills, as associated with a range of neurodevelopmental disorders, can effect social interaction, and in particular the use and interpretation of non-verbal communication techniques. This can result in difficulties expressing emotions or understanding the emotions being expressed by others, or the use of challenging behaviour as a means to communicate emotions.²⁶ Clearly this can influence daily interactions with staff and fellow inmates. An awareness of such difficulties can therefore inform the development of more effective approaches to communication with young people. This should include:

- Speaking slowly and carefully, using simple, everyday language, and avoiding technical terms or abstract concepts.
- Keeping questions simple, avoiding complex sentences with multiple clauses.

20. Daley, D. & Birchwood, J. (2010) 'ADHD and academic performance: why does ADHD impact on academic performance and what can be done to support ADHD children in the classroom?', *Child: Care, Health and Development*, 36(4), pp. 455–464. Page 456.

21. Williams, W.H. (2013) *Repairing shattered lives: brain injury and its implications for criminal justice*. London: Transition to Adulthood Alliance.

22. Boland, FJ, Burrill, R, Duwyn, M and Karp, J. (1998) *Fetal Alcohol Syndrome: Implications for Correctional Service*. Correctional Services Canada.

23. Boland, FJ, Burrill, R, Duwyn, M and Karp, J. (1998) *Fetal Alcohol Syndrome: Implications for Correctional Service*. Correctional Services Canada.

24. Chitsabesan, P., Lennox, C., Williams, H., Tariq, O. and Shaw, J (2015) Traumatic Brain Injury in Juvenile Offenders: Findings From the Comprehensive Health Assessment Tool Study and the Development of a Specialist Linkworker Service. *Journal of Head Trauma Rehabilitation*, 30(2): 106-115.

25. The Disabilities Trust Foundation (2015) *Brain Injury Linkworker Service*. Available at: www.thedtgroup.org/media/513066/16.01.15_Linkworker_Service_Report.pdf

26. Ryan, N.P, Anderson V., Godfrey C., Eren S., Rosema S., Taylor K., & Catroppa C. (2013) 'Social communication mediates the relationship between emotion perception and externalizing behaviors in young adult survivors of pediatric traumatic brain injury (TBI)', *International Journal of Developmental Neuroscience*, 31, pp. 811–819.

- Giving sufficient time to process a question, avoiding interrupting during pauses.
- Maintaining eye contact and ensuring body language is neutral, avoiding expressions such as nodding which might encourage confirmatory responses.
- Where appropriate, supporting communication through visual aids (such as prompt cards or photos) and appropriately trained intermediaries (such as speech pathologists).

Indeed such practices may be usefully employed with all young people in custody based on assumptions of impairment and difficulty with communication, even where such difficulties are subclinical or undiagnosed.

An awareness of the myriad potential influences of neurodevelopmental impairment on behaviour and functioning among custodial staff is also crucial to the accurate interpretation of that behaviour, and therefore an appropriate response. In particular, this recognition should encourage staff to avoid assumptions that such behaviour demonstrates attitudinal problems, such as a lack of motivation or wilful non-compliance with directives. In doing so, staff can avoid the inappropriate negative labelling of young people with impairment that can cause 'additional disadvantage for the young person's passage through the justice system'.²⁷ For example, rather than deliberate non-compliance with orders from custodial staff, rule breaking may reflect deficits in executive functioning, as associated with a range of disorders, including FASD and learning disability. Executive functioning is an umbrella term describing the various cognitive processes used to undertake complex goal-oriented thought and action.

Deficits in such functioning can therefore imply difficulties with concentration, planning and sequencing tasks, responding to new or changing situations, and self-regulating contextually appropriate behaviour.²⁸

An awareness of how such deficits may be the root cause of difficulties with behaviour and functioning can also encourage more appropriate means of engagement. This can range from relatively simple changes to everyday practice. For example, young people with FASD are thought to respond well to 'order, structure and predictable routines', but to require instructions to be

'clear' and 'consistent', and given 'in a simple concrete fashion'.²⁹ However, patience may also be required since cognitive deficits associated with FASD can mean initial difficulties in understanding instructions or rules, and therefore their inadvertent contravention.³⁰ Streissguth therefore highlights the need for 'constructive feedback' when rule breaking initially occurs.³¹

Similarly, understanding how deficits in emotional functioning may lead to particular reactions in contexts of stress, confusion and anxiety can promote alternative means to manage and resolve tension, with negative instances reduced through appropriate structure to daily routines, and close monitoring and recognition of early signs of distress. In particular aggressive responses may be more likely among young

people with particular neurodevelopmental impairments. For example, young people with autism can have low levels of serotonin,³² which is known to heighten the risk of 'behavioural disinhibition'.³³ In parallel, autism can negatively affect stress response mechanisms, particularly in unfamiliar situations, impeding the ability to read and respond to emotional social cues, and increasing the

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27. Snow, P.C., Powell, M.B. & Sanger, D.D. (2012) 'Oral Language Competence, Young Speakers, and the Law', *Language, Speech and Hearing Services in Schools*, 43, pp. 496–506. Page 502.
28. Meltzer, L. (ed.) (2007) *Executive Function in Education: From Theory to Practice*. New York: The Guilford Press.
29. Funahashi, S. (2001) 'Neuronal mechanisms of executive control by the prefrontal cortex', *Neuroscience Research*, 39, pp. 147–65.
29. Streissguth, A. P. (1997). *Fetal Alcohol Syndrome: A guide for families and communities*. MD: Pearl H. Brooks Publishing Company, cited by Boland, FJ, Burrill, R, Duwyn, M and Karp, J. (1998) *Fetal Alcohol Syndrome: Implications for Correctional Service*. Correctional Services Canada.
30. Fast, D.K. and Conry, J. (2004) The challenge of Fetal Alcohol Syndrome in the criminal justice system. *Addiction Biology*. 9: 161-166.
31. Streissguth, A. P. (1997). *Fetal Alcohol Syndrome: A guide for families and communities*. MD: Pearl H. Brooks Publishing Company, cited by Boland, FJ, Burrill, R, Duwyn, M and Karp, J. (1998) *Fetal Alcohol Syndrome: Implications for Correctional Service*. Correctional Services Canada.
32. Chugani, D. C., Muzik, O., Behen, M., Rothermel, R., Janisse, J. J., Lee, J., & Chugani, H. T. (1999) 'Developmental changes in brain serotonin synthesis capacity in autistic and nonautistic children', *Annals of Neurology*, 45, pp. 287–295.
33. van Goozen, S.H.M., Fairchild, G., Snoek, H., & Harold, G.T. (2007) 'The evidence for a neurobiological model of childhood antisocial behaviour', *Psychological Bulletin*, 133, pp. 149–182. Page 162.

likelihood of 'hot-headed' behaviour or reactive aggression.³⁴ Executive functioning deficits can also increase propensity towards aggressive behaviour³⁵ by 'decreasing behavioral inhibition, impairing the ability to anticipate behavioral consequences and assess punishment and reward, [or] damaging the capability to generate socially appropriate behavior in challenging contexts'.³⁶

Revisions to everyday practices of engagement so as to take account of such explanations for aggressive behaviour have the potential to have a very significant impact on the use of force and restraint. For example, evidence suggests that young people with learning disability are around 'five times as likely to have been subject to control and restraint, and over three times as likely to report having spent time in segregation'.³⁷ This finding is also echoed by Gooch and Treadwell, who found that young people who self-reported a disability 'were often over-represented ... in adjudications and in the use of force'.³⁸

Awareness of a young person's needs can also help practitioners in regular contact with them to offer appropriate support in the development of adaptive coping mechanisms. For example, the education of prison staff around the impact of TBI and management strategies to support offenders has been found to have positive outcomes for both staff and prisoners, leading to a reduction in the number of negative interactions.³⁹

Whilst practice is clearly varied, the Office of the Children's Commissioner for England also highlights a general 'tendency to focus on physical controls to manage risk and deal with challenging behaviour rather than through developing relationships and

transparency'.⁴⁰ This is in contrast to recurring messages within the research literature regarding the importance of forming effective relationships between staff and young offenders.⁴¹ The importance of such relationships appears to be particularly key in relation to young people with particular impairments.⁴²

Neurodevelopmental impairment can similarly affect relationships with peers. Young people with neurodevelopmental impairment are prone to bullying, meaning 'they will need special consideration to prevent victimisation'.⁴³ For example, deficits in social communication can influence the formation and maintenance of peer relationships. In particular, Conti-Ramsden and Botting suggest that young people with speech and language difficulties are approximately three times more likely to be 'regular targets for victimization' when compared to those without such difficulties.⁴⁴ This has been echoed in research with young people with a learning disability.⁴⁵

Recent research by Gooch and Treadwell similarly highlights the particular risk of bullying of those with 'disability' among young prisoners.⁴⁶ However, Gooch and Treadwell also suggest that: 'Prisoners with disabilities were also just as likely to be perpetrators as victims'.⁴⁷ This may reflect behavioural symptoms related to some forms of impairment. It may also reflect the complex inter-relationship between bullying and victimization which may see these vulnerable young people manipulated to perpetrate violence by other young prisoners. For example, those with FASD have been found to 'be influenced negatively by their peers because they want to 'fit in' and 'be liked'.⁴⁸ This suggests that young people with neurodevelopmental impairments may be readily

34. Crockett M. J. (2009) 'The neurochemistry of fairness: clarifying the link between serotonin and prosocial behavior', *Annals of the New York Academy of Sciences*, 1167, pp. 76–86; Spratt, E.G., Nicholas, J.S., Brady, K.T., Carpenter, L.A., Hatcher, C.R., & Meekins, K.A (2012) 'Enhanced cortisol response to stress in children with autism', *Journal of Autism and Developmental Disorders*, 42(1), pp. 75-81.
35. De Brito, S.A., Viding, E., Kumari, V., Blackwood, N. & Hodgins, S. (2013) 'Cool and Hot Executive Function Impairments in Violent Offenders with Antisocial Personality Disorder with and without Psychopathy', *PLoS One*, 8(6), DOI: 10.1371/journal.pone.0065566; Giancola, P.R., Mezzich, A.C. & Tarter, R.E. (2001) 'Executive cognitive functioning, temperament, and antisocial behavior in conduct-disordered adolescent females', *Journal of Abnormal Psychology*, 107(4), pp. 629–641.
36. Ogilvie, J.M., Stewart, A.L., Chan, R.C.K. & Shum, D.H.K. (2011) 'Neuropsychological measures of executive function and antisocial behavior: A meta-analysis', *Criminology*, 49(4), pp. 1063–1107. Page 1064.
37. Talbot, J. (2008) *Prisoners' Voices: Experiences of the criminal justice system by prisoners with learning disabilities and difficulties*, London: Prison Reform Trust
38. Gooch, K. and Treadwell, J. (2015) *Prison Bullying and Victimization*. Birmingham: University of Birmingham. Page 49.
39. Ferguson, P.L., Pickelsimer, E.E., Corrigan, J.D., Bogner, J.A., Wald, M. (2012) Prevalence of traumatic brain injury among prisoners in South Carolina. *Journal of Head Trauma Rehabilitation*, 27: E11-20.
40. Office for the Children's Commissioner (2011) *I think I must have been born bad: emotional wellbeing and mental health of children and young people in the youth justice system*. OCC: London.
41. Mason, P. and Prior, D. (2008) *Engaging Young People Who Offend – Source Document*. London: Youth Justice Board; Centre for Social Justice (2012) *Rules of Engagement: Changing the Heart of Youth Justice*. London: Centre for Social Justice; Rose, J. (2014) *Working with young people in the secure estate: from chaos to culture*. Second edition. Hove: Routledge.
42. The Disabilities Trust Foundation (2015) *Brain Injury Linkworker Service*. Available at: www.thedtgroup.org/media/513066/16.01.15_Linkworker_Service_Report.pdf
43. Fast, D.K. and Conry, J. (2004) The challenge of Fetal Alcohol Syndrome in the criminal justice system. *Addiction Biology*, 9: 161-166.
44. Conti-Ramsden, G. & Botting, N. (2004) 'Social difficulties and victimization in children with SLI at 11 years of age', *Journal of Speech, Language, and Hearing Research*, 47, pp. 145–161.
45. Baumeister, A., Storch, E. & Geffken, G. (2008) 'Peer victimization in children with learning disabilities', *Child and Adolescent Social Work Journal*, 25, pp. 11–23. Mishna, F. (2003) 'Learning disabilities and bullying: Double jeopardy', *Journal of Learning Disabilities*, 36, pp. 336–347.
46. Gooch, K. and Treadwell, J. (2015) *Prison Bullying and Victimization*. Birmingham: University of Birmingham. Page 48.
47. Gooch, K. and Treadwell, J. (2015) *Prison Bullying and Victimization*. Birmingham: University of Birmingham. Page 48.
48. Fast, D.K. and Conry, J. (2004) The challenge of Fetal Alcohol Syndrome in the criminal justice system. *Addiction Biology*, 9: 161-166.

targeted and manipulated by peers. Further research is clearly needed here.

Ensuring assessment and recognition of impairment

Given the relevance of neurodevelopmental impairment to behaviour, screening and assessment are key — both to understanding and responding to difficulties facing individual young people, and to recognising collective levels of need so as to appropriately commission specialist health, education and employment services for young offenders. However screening and assessment are also clearly challenging. A number of recent reviews of criminal justice service provisions in the UK highlighted concerns about the lack of effective recognition of neurodevelopmental impairment.⁴⁹ Of particular relevance are the findings of the Office of the Children's Commissioner for England, published in the report 'I think I was born bad'.⁵⁰ Following an extensive programme of inspections of secure children's homes, secure training centres and young offenders' institutions in 2010 and 2011, the Children's Commissioner raised concern regarding the significant number of young people in the secure estate who demonstrated symptoms indicating potential neurodevelopmental disorders, and the perceived level of undetected or unassessed needs amongst this group.

There have been recent advances in assessment in the criminal justice system within the UK undertaken in response to these concerns. In particular, an assessment system has been validated for use with young offenders within the secure estate across England and Wales, and is now utilized in all youth custodial institutions. The Comprehensive Health Assessment Tool (CHAT) includes initial screening for a range of different disorders,

including ADHD, autism, learning disability, communication disorders, and TBI, alongside broader assessment of physical and mental health needs, and substance use.⁵¹ The section of the CHAT relevant to 'neurodisability' is intended to be completed by a trained clinical practitioner within ten days of initial admission. Such a time scale allows opportunities to observe and engage the young person, as well as accessing corroborative and informant history.

However, as highlighted by the findings of the influential Bradley Report⁵² regarding the experiences people with mental health problems or learning disabilities in the criminal justice system, the existence of screening tools is necessary but not sufficient for ensuring effective responses to meet the needs of those who are assessed. In particular, it is vital that such assessments

...it is vital that such assessments inform the practice of those working on a daily basis with young people identified as having a particular disorder.

inform the practice of those working on a daily basis with young people identified as having a particular disorder. This is seemingly not universally the case. For example, Gooch and Treadwell found that prison staff were often seemingly unaware 'of who had reported a disability, how this might affect their behaviour or what support they might need' as a result.⁵³

Furthermore there are evident gaps in the coverage of the CHAT, particularly regarding fetal alcohol spectrum disorder.

This reflects the significant challenges in diagnosing FASD,⁵⁴ but means that such disorders have the potential to remain unrecognized. Assessments also need to be alert to impairments that may not meet the criteria or severity for diagnosis of a clinical disorder, but may nonetheless significantly impact upon functioning. Recognition of need does not necessarily imply diagnosis of a disorder. Assessments should also emphasise function and need, rather than diagnosis, and should maintain a holistic rather than medical approach.

49. Department of Health (2009) *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system*. London: Department of Health. Available at: www.centreformentalhealth.org.uk/pdfs/Bradley_report_2009.pdf
50. Office for the Children's Commissioner (2011) *I think I must have been born bad: emotional wellbeing and mental health of children and young people in the youth justice system*. OCC: London.
51. Offender Health Research Network. (2013). *The Comprehensive Health Assessment Tool (CHAT): Young people in the secure estate – Version 3*. Manchester: University of Manchester; Chitsabesan, P., Lennox, C., Williams, H., Tariq, O. and Shaw, J (2015) Traumatic Brain Injury in Juvenile Offenders: Findings From the Comprehensive Health Assessment Tool Study and the Development of a Specialist Linkworker Service. *Journal of Head Trauma Rehabilitation*, 30(2): 106-115.
52. Department of Health (2009) *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system*. London: Department of Health. Available at: www.centreformentalhealth.org.uk/pdfs/Bradley_report_2009.pdf
53. Gooch, K. and Treadwell, J. (2015) *Prison Bullying and Victimisation*. Birmingham: University of Birmingham. Page 48.
54. Benz, J., Rasmussen, C., & Andrew, G. (2009). Diagnosing fetal alcohol spectrum disorder: History, challenges and future directions. *Paediatrics & Child Health*, 14(4), 231.

In addition to formal systems of assessment and diagnosis, staff should be trained so as to identify signs of impairment that require assessment. Custodial staff therefore need to be equipped to distinguish between 'normal' adolescent behaviour, and 'abnormal' behaviour that indicates an unidentified neurodevelopmental disorder may underpin the behaviour.⁵⁵ Clearly identifying impairment is challenging due to the complexity of needs of many young people in custody and the context in which staff are working with them, as well as reluctance among many young people to divulge such difficulties. However, it is important to be aware of possible signs of impairment and the coping strategies young people may use to cover up any difficulties they have. For example, when speaking to a young person it is useful to consider whether he or she: has difficulty explaining him or herself; shows signs of hyperactivity, fidgeting or can not sit still; is easily distracted, or does not listen or concentrate; or is easily angered or responds aggressively. All of these may be signs of impairment and may warrant referral to an appropriate professional and consideration to previous assessments of the young person that have been undertaken. There are also a range of short tasks that can be utilized to test certain skills, such as asking the young person to recall a list of words, to name objects, or to write a sentence.

Given the challenges in effectively diagnosing some conditions and impairments in this context, it is also important that assessments undertaken in custody are not disconnected from those undertaken previously in community settings. Information should be shared, including, where possible, that regarding treatment and support received, and the associated trajectories of development and impairment.

Our account of the multiple and diverse influences of neurodevelopmental impairment on functioning and behaviour, coupled with the apparent high prevalence of such impairment among young people in custody, highlights the significance of effective recognition and response. An effective response necessarily includes the development of bespoke, tailored and responsive interventions and support programmes able to address the specific needs of young people with impairment, as well as the necessary revisions to generic programmes, such as those related to education or substance use, so as to ensure effective engagement of all young people. An effective response also requires consideration to appropriate daily interactions between staff and young people, particularly in understanding the reasons for problematic behaviour or non-compliance with rules or orders. Such responses are necessarily underpinned by effective assessment of impairments and by staff awareness of 'warning signs' or indicators of particular difficulties.

These suggestions clearly pose considerable challenges for custodial institutions. In particular they suggest the need for significant levels of training and awareness among staff. They also suggest the need for effective communication with a range of agencies or services so as to share previous assessments, provide specialist support when in custody, or enable appropriate transition to such support following transition into the community. However, not to act on the increased awareness of the prevalence and importance of neurodevelopmental impairment is to continue to impede the practice of custodial staff, and to fail to meet the needs of young people made vulnerable by emotional and cognitive difficulties.

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Improving the management of prisoners with autistic spectrum disorders (ASD)

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Introduction

Autistic Spectrum Disorders are lifelong conditions characterised by difficulties in social interaction and communication and often associated with restricted or repetitive patterns of thought or behaviour. The clinical expression of ASD is not uniform but varies between individuals, their stage of development, changing environmental demands and with the presence of comorbidities. However, people with ASD typically experience difficulties or misunderstandings in their daily lives as a result of their condition. ASD affects approximately 1 per cent of people.

Increasing awareness of the disadvantages associated with ASD resulted in the development of the Autism Act 2009. This placed a duty on the Government to produce a strategy and statutory guidance in relation to people with autism. The initial strategy, 'Fulfilling and Rewarding Lives', was published in 2010 followed by the 'Think Autism' strategy as updated in 2014.¹ In addition to this specific legislation, people with ASD also benefit from the protection provided by the Equalities Act 2010.

The increasing recognition of the prevalence of autistic spectrum disorders and the difficulties experienced by people with such disorders has prompted those working within the criminal justice system (CJS) to consider how people with ASD experience and interact with the CJS.

This paper describes a collaboration between HMYOI Feltham and the National Autistic Society (NAS) to develop and implement standards and a framework for good practice to help support prisoners with autistic spectrum disorders within a custodial environment.

Prevalence of Autistic Spectrum Disorders within the Criminal Justice System

There is much uncertainty and conflicting evidence about the exact prevalence of ASD amongst those coming into contact with the different parts of the CJS, and the prevalence amongst prisoners in particular. Problems arise due to differences in definitions, diagnostic methods used and populations studied. Most community studies have suggested that, in general, there is an average or lower than average rate of offending amongst people with ASD² although higher rates were found in one study.³

However, some studies of adult prisoners have suggested that the prevalence of ASD is greater than that found in the general population. No studies conducted in English prison populations have been published although several researchers have suggested that there are likely to be many individuals with unrecognised ASD in custody.⁴ There have been no published studies of the prevalence of ASD amongst English adolescent offenders within secure settings or in the community. This deficit was noted in a recent report by the Children's Commissioner which made a strong recommendation for more research into the identification and management of neurodisabilities, including ASD, amongst young people who offend.⁵

1. Department of Health (2010) Think Autism: Fulfilling and rewarding lives: the strategy for adults with autism in England. London. Social Care Local Government and Care Partnership Directorate (2014) Think Autism: Fulfilling and Rewarding Lives, the strategy for adults with autism in England: an update.
2. Woodbury-Smith, M. R., Clare, I. C. H., Holland, A. J. & Kearns, A. 2006. High functioning autistic spectrum disorders, offending and other law-breaking: findings from a community sample. *The Journal of Forensic Psychiatry & Psychology*, 17, 108-120; Hippler, K., Viding, E., Klicpera, C. & Happe, F. 2010. Brief Report: No Increase in Criminal Convictions in Hans Asperger's Original Cohort. *J Autism Dev Disord*, 40, 774-780; Ghaziuddin, M., Tsai, L. & Ghaziuddin, N. 1991. Brief report: Violence in Asperger syndrome, a critique. *J Autism Dev Disord*, 21, 349-354.
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4. McAdam, P. 2012. Knowledge and understanding of the autism spectrum amongst prison staff. *Prison Service Journal*, 26-30; Myers, F. 2004. *On the Borderline? People with Learning Disabilities and/or Autistic Spectrum Disorders in Secure, Forensic and Other Specialist Settings*. Scottish Development Centre for Mental Health, Edinburgh.
5. Hughes, N., Williams, H., Chitsabesan, P., Davies, R. & Mounce, L. 2012. Nobody made the connection: The prevalence of neurodisability in young people who offend. The Office of The Children's Commissioner. London.

Community and custodial studies of young offenders in other countries have consistently found increased rates of ASDs, although there is wide variability in absolute prevalence between these studies, with rates ranging from 5-21.4 per cent.⁶ A recent systematic review⁷ has been published which attempted to establish the main conclusions that can be drawn from the existing research. The authors expressed reservations about the possible confounding effects of the different methodologies and samples used, but concluded that 'it is likely' that people with ASD are over represented within the CJS. This recognition of the likelihood of a significant population of people with ASD within the CJS has prompted consideration as to how they may be identified and their needs addressed.

Management of people with Autistic Spectrum Disorders in prisons

Custody is a challenging environment for most people and may well be especially so for people with ASD. It has been demonstrated that people with ASD find ordinary life in the community far more stressful than most people.⁸ They may similarly experience disproportionately high levels of distress whilst in prison resulting in them exhibiting challenging behaviour and gaining less benefit from attempts at rehabilitation. In addition, the difficulties experienced by prisoners with ASD may adversely impact on everyday prison processes and result in inefficient or increased use of resources or other operational disruption.

The difficulties experienced by people with ASD can result in them attracting attention within a custodial environment, although the reasons behind their difficulties may be unrecognised.⁹ They can be viewed as being purposefully disruptive, irritating or rude rather than their behaviour being attributed to distress or misunderstanding. Alternatively, they can be bullied but struggle to communicate this to staff and thereby fail to access available support.

In 2013 the National Offender Management Service (NOMS) commissioned the National Autistic Society (NAS) and other charitable bodies to conduct a review of the service

provided to prisoners with learning difficulties and disabilities.¹⁰ Although the review found that staff had good theoretical knowledge of some aspects of autism, it observed that in practice, they often struggled to recognise those aspects in offenders and instead misunderstood their behaviour.

A number of researchers¹¹ have suggested ways in which prisoners with ASD could be better supported within a custodial environment. These suggestions have included: training to increase the ability of prison and court staff to recognise symptoms of ASD, the development of specific pathways of care for individuals with ASD in prison and the introduction of specialist wings for prisoners with ASD.

Recognition of the unique challenges inherent in developing effective ASD services within custodial settings and a wish to achieve a more pervasive cross-functional impact on the management of prisoners with ASD prompted the project described in this paper.

Prison ASD Service

A specialist autism service has existed within the Healthcare Department of HMYOI Feltham since 2012. This has input from speech and language therapy, nursing, occupational therapy, psychology and medical staff. Assessments involve the young person, a parent/carer and staff members and comprise comprehensive developmental interviews together with the use of several specialist autism tools (typically the Autism Quotient Questionnaire — 50 (AQ50) and the Autism Diagnostic Observation Schedule (ADOS)).

If prisoners are identified as having an ASD, members of the mental health team work with education and discipline staff to develop an individualised care plan to support the prisoner during his time at HMYOI Feltham. Links are also made with services in the community to ensure ongoing care after release.

In 2014 the ASD service was audited using the Green Light Toolkit¹² against national standards. The results indicated that the service was operating largely at an adequate ('Better') level. However, it was evident from the findings that, in order

6. Kumagami, T. & Matsuura, N. 2009. Prevalence of pervasive developmental disorder in juvenile court cases in Japan. *The Journal of Forensic Psychiatry & Psychology*, 20, 974-987; Siponmaa, L., Kristiansson, M., Jonson, C., Nyden, A. & Gillberg, C. 2001. Juvenile and young adult mentally disordered offenders: The role of child neuropsychiatric disorders. *Journal Of The American Academy Of Psychiatry And The Law*, 29, 420-426; Stahlberg, O., Anckarsater, H. & Nilsson, T. 2010. Mental health problems in youths committed to juvenile institutions: prevalence and treatment needs. *Eur Child Adolesc Psychiatry*, 19, 893-903; Cheely, C., Carpenter, L., Letourneau, E., Nicholas, J., Charles, J. & King, L. 2012. The Prevalence of Youth with Autism Spectrum Disorders in the Criminal Justice System. *Journal of Autism and Developmental Disorders*, 42, 1856-62.
7. King, C. & Murphy, G. H. 2014. A Systematic Review of People with Autism Spectrum Disorder and the Criminal Justice System. *Journal of Autism and Developmental Disorders*, 44, 2717-2733.
8. Hirvikoski, T. & Blomqvist, M. 2015. High self-perceived stress and poor coping in intellectually able adults with autism spectrum disorder. 19, 752-757.
9. See case study in chapter 12 of Chief Medical Officer 2012. Annual Report. Our Children Deserve Better: Prevention Pays. In: Department of Health. (ed.). London.
10. National Offender Management Service 2013. Improving Services for Offenders with Learning Disabilities and Learning Difficulties: A Literature Review.
11. Woodbury-Smith, M. & Dein, K. 2014. Autism Spectrum Disorder (ASD) and Unlawful Behaviour: Where Do We Go from Here? *Journal of Autism and Developmental Disorders*, 44, 2734. 2741; Freckelton, I. 2013. Autism Spectrum Disorder: Forensic Issues and Challenges for Mental Health Professionals and Courts. *J. Appl. Res. Intellect. Disabil.*, 26, 420-434.
12. National Development Team For Inclusion 2013. Green Light Toolkit 2013: A guide to auditing and improving your mental health service so that it is effective in supporting people with autism and people with learning disabilities. Department of Health, London.

to achieve a higher standard of care for people with ASD, it would be necessary to reconceive the management of ASD within the prison from being primarily a mental health responsibility to an approach cutting across all functions and involving the whole prison.

National Autistic Society

The National Autistic Society (NAS) is the UK's leading charity for people affected by autism. It has been running the Autism Accreditation programme since 1992. Autism Accreditation provides an autism-specific quality assurance programme for organisations throughout the UK and internationally. Successful achievement of the programme's standards is recognised by the award of a kite mark representing endorsement by the NAS. Regular oversight and ongoing audit are important components of the system. Achievement is evaluated by a moderated peer review system reporting to an independent Award Panel before Accredited Status is conferred.

Autism Accreditation has been achieved by a wide range of services including schools, colleges, adult day and residential services and secure hospitals. However, it had never been attempted by a correctional facility. The multi-agency applicability of the NAS Autism Accreditation appeared to offer a way to achieve our desired whole prison approach to the identification and management of ASD. Therefore an approach was made to the NAS to collaborate and develop standards suitable for a prison environment.

Achieving a partnership agreement

A fairly lengthy period of liaison took place between the Accreditation Director of the NAS, the Governing Governor and the Health and Education management leads within the HMYOI Feltham before a partnership agreement was finally achieved.

Issues that arose during this period of liaison included querying why prisoners with ASD should be prioritised over prisoners with other difficulties, concerns regarding the extra work that might be involved, cost implications, how to make already overstretched staff available for training, ensuring that by increasing visibility of prisoners with ASD we did not increase their vulnerability, information sharing concerns, reputational risks and delays due to recommissioning of certain in-house services.

However, all these issues were satisfactorily addressed and a partnership arrangement was finalised in late 2014. This landmark project marks the first development of autism standards for prisons worldwide.

Project Aims

The aims of this project were:

- ☐ To develop autism standards specifically for the secure estate.

- ☐ To improve partnership working within prisons.
- ☐ To ensure best practice is delivered across the estate.
- ☐ Better recognition of the needs of people with autism.
- ☐ Understanding the reasonable adjustments that can be put in place to support people with autism.
- ☐ To ensure best outcomes for people with autism.

Project Outline

The project was divided into 6 sequential phases to take place over a 12 month period as follows:-

<i>Develop Standards</i>	<i>January – March 2015</i>
<i>Implementing Standards</i>	<i>March – July 2015</i>
<i>Self-audit</i>	<i>August 2015</i>
<i>External audit</i>	<i>September/October 2015</i>
<i>Accreditation</i>	<i>December 2015</i>
<i>Dissemination</i>	<i>December 2015 onwards</i>

Development of Standards

The aim was to develop a framework of practice and a set of Autism Accreditation standards that were adapted to the realities of the environment, staffing and management in custody. The standards would set out appropriate adjustments and levels of understanding and awareness expected across the different functions within the prison.

A steering group was set up to oversee the project. It had senior representation from Mental Health, Primary Care, Education and Discipline functions at HMYOI Feltham and from the Autism Accreditation division of the NAS. It was chaired by a prison governor and met monthly. The first meeting was attended by the governing governor who made his support for the project clear and requested regular updates about the project's progress. This unequivocal top management buy-in was critical in giving the project credibility within the prison and helping to foster goodwill and commitment to achieving its aims.

It was acknowledged that the prison was not a homogenous institution and that it would not be reasonable to expect a single level of understanding and standard of practice across the whole establishment. Front line discipline and primary care staff should not be expected to have a specialist level of knowledge about ASD but a higher standard could reasonably be expected of staff working in mental health and education. As a consequence, the prison was divided into four areas for the purposes of the audit: Education, Mental Health, Primary Care and Discipline. It was agreed that each area would be audited separately and all four areas would need to meet the relevant standards in order for the prison to be accredited.

The steering group reviewed existing NAS Autism Accreditation standards and it was agreed that, with some modification, existing standards could be used for health and education. However, nothing existed which would be

appropriate to use as a framework to evaluate the Discipline function within the prison, so these standards were developed *de novo*.

In order to develop or optimise their respective standards, each of the four audit areas set up internal working groups which met regularly. The progress of these internal working groups was reported back to the monthly steering group meeting.

The steering group considered the impact of each standard at each stage of a person's journey through the prison from reception to release/transfer.

The key task for the discipline group was to develop a new set of 'discipline' standards which could be used to evaluate the sensitivity of the everyday prison processes and environment to the needs of people with autism. This was achieved by considering which aspects of everyday life within the prison were likely to impact on a prisoner with ASD and to develop frameworks of good practice around these. The processes inherent in the whole pathway from reception to release were identified and consideration given as to how they could be amended to improve the identification and support prisoners with ASD. The frameworks developed were then used as the basis for the new audit standards.

Autism Awareness Training

An important aspect of the project was to begin a programme of increasing staff awareness about ASD throughout the prison. This involved educational sessions provided by in-house mental health staff, distribution of NAS information leaflets and setting up of display areas around the prison highlighting autism as an issue. It was decided that, in addition to providing regular whole prison training sessions, to appoint 25 'Autism Champions' who would undergo more in-depth training about ASD so that they could act as a resource for other staff. Staff from all prison departments were invited to register to become 'Autism Champions' and there was an enthusiastic response. Many came with valuable personal experience of ASD through having friends or family members with the diagnosis or having previously worked closely with offenders with ASD. Care was taken to ensure that champions were appointed from a range of departments. Champion training involved a mixture of face to face sessions delivered by mental health and NAS staff and online training using the NAS 'Ask Autism' online training modules.

Consideration was also given as to how ASD awareness could be increased amongst prisoners. Awareness raising events took place in Education and the library during April 2015 to coincide with World Autism Awareness Day. Comments made by prisoners after participating in these activities included:

Autism — it's something that I will feel sorry for someone to have and will treat them better than normal people because they can't tell people what they need and how they feel.

I didn't realise it was a genetical disability, I thought it was to do with how your parents dealt with you when they were pregnant with you.

I think I have autism.

It was felt that these events were an effective way of disseminating information about ASD to prisoners and it is planned to make them an annual occurrence. We introduced autism awareness training for all Listeners to improve their ability to recognise and support other prisoners with ASD.

Implementing the Standards

Implementation of the standards had two aims. First to check the relevance and feasibility of the standards and secondly to determine how each function could demonstrate that it was meeting each standard.

No extra financial resources were available for this project and a high vacancy rate meant that existing staff were already working hard to achieve other targets (e.g. introduction of CHAT and the protected core day) whilst we were implementing the ASD project. It was recognised that it was important that the requirements of this project did not create an unnecessary additional burden.

One way that this was achieved was to examine all the meetings already occurring within the prison and seeing where ASD issues could be included as recurring items on the agendas (e.g. Equalities action team meeting). This meant that ASD issues were routinely considered during these meetings and the minutes of the meeting helped to provide evidence of those discussions. Similarly, we examined the data gathering that was already routinely taking place to see how ASD related information could be extracted. This way we helped to weave autism awareness into the fabric of the prison routine and minimised any duplication of effort.

It was agreed that some aspects of our autism modifications would be better captured through interviews with staff, service users and carers so it was decided that these should be included as part of the audit evidence as well as traditional paper gathering techniques.

Audit

A comprehensive internal audit took place in August 2015. This was invaluable in highlighting any areas of weakness and ensuring that each area could adequately demonstrate the adaptations it had made to improve the identification and support of people with ASD.

The independent NAS Autism Accreditation audit took place in September 2015. The Accreditation team was composed of 3 people: two with high levels of ASD expertise and one with extensive prison experience.

The inspection comprised a 'walk through' of the prisoner journey by a member of the audit team, from reception, to induction units, to residential wings and

education/workshops. The audit also included opportunities to observe lessons and workshops as well as interviews with key staff across a range of functions. Several opportunities were provided for inspectors to speak to prisoners about their experiences. Paperwork such as policies and procedures, training packages and resources and prisoner and carer feedback were inspected.

In order to achieve accreditation, each area within the prison needed to meet at least 85 per cent of its standards and to have plans as to how it will achieve the remaining 15 per cent of standards.

The audit team presented their findings to the NAS Accreditation Panel which then convened in December 2015 to make a final decision. We are delighted to report that we were successful and have been awarded Autism Accreditation status by the NAS.

This is a great achievement but does not mark the end of the process as it is intended that a once every three years audit cycle will continue and that continuing improvements will be made. Staff from NAS Autism Accreditation will continue to support the prison between audits to encourage continuous development and provide oversight.

Developing and implementing the standards has involved considerable work, and it will be important to be sure of the effectiveness of this ongoing project. We intend to evaluate it using a range of outcome measures to ensure that the frameworks we have implemented are effective in improving the ability of the prison to support prisoners with ASD and to maximise opportunities to engage in rehabilitation.

Prisons are subject to a high level of scrutiny and accountability and the notion of being 'inspected' can be associated with a lot of stress for an establishment. However, our experience of the Autism Accreditation process has been extremely positive. We were allocated an Accreditation Advisor who supported us from the beginning to the end, shared a wealth of experience and learning from other organisations and made the whole process seem eminently achievable. The establishment has gained through the close cross-functional links that have developed as a result of this project and the benefits of this have extended had wide reaching effects.

Dissemination of learning

As knowledge about the project has become widespread both the prison and the NAS have been contacted by a number of other prisons which have recognised the difficulties experienced by people with ASD within their establishments and are interested in learning from our experience. The work has attracted Ministerial attention and in March 2015 the

Prisons Minister issued a statement encouraging all prisons to seek Autism Accreditation (Ministry of Justice, 2015).

Network Meetings were held in June 2015 and December 2015 at which practical advice and learning points were shared with other prisons who had registered an interest in seeking similar Autism Accreditation. Discussion also took place to decide on appropriate ways to evidence meeting of standards. From June 2015, three other establishments joined the pilot to ensure that the standards are transferrable across the adult estate and to other prisons.

A group has been developed to share best practice across the other prisons participating in the Autism Accreditation process.

Pilots have also begun to develop similar standards with the National Probation Service and Community Rehabilitation Companies as well as the Police.

Implications for Practice

The consequences of the successful implementation of these standards are likely to include reduced distress for people with ASD and improved engagement with rehabilitative and day to day prison processes. This is likely to offer prisoners benefits both within the custodial environment and post-release. It will also enable prisons to meet the duties imposed on them by the Autism Act and Equalities Act to make 'reasonable adjustments' to their services in order to ensure that people with ASD obtain fair access and effective interventions. The most recent progress report¹³ for the Think Autism strategy mentions the development of these standards for prisoners with ASD as an example of good practice.

The implementation of these standards is particularly relevant for Young Offenders Institutions (YOIs). A new tool has been developed to improve the identification of health problems amongst young offenders, the new Comprehensive Healthcare Assessment Tool (Shaw et al., 2014), this incorporates a specific screen for ASD which is likely to lead to increased detection of these disorders. The CHAT is now compulsory for all receptions into youth custody (and there are plans to extend its use to Youth Offending Services in the future). Implementation of these autism standards in YOIs could ensure that a framework of good practice exists to support young people identified as having ASD by the CHAT.

Implementation of these standards is likely to require allocation of staff time and some costs in relation to staff training. Training costs can be minimised by using the prison mental health team to provide staff training. It is hoped that, once implemented, the new framework of care will mean that the prison is better able to meet the needs of people with ASD and result in less disruption to everyday processes, increasing overall efficiency within the prison.

13. Department of Health (2016) Progress Report on Think Autism: the updated strategy for adults with autism in England, HMSO, London. www.gov.uk/government/publications/progress-report-on-strategy-for-adults-with-autism accessed 27 January 2016.

Carlile Inquiry — 10 years on

Lord Alex Carlile of Berriew CBE, QC chaired the Howard League Inquiry into physical restraint, solitary confinement and forcible strip searching in the juvenile secure estate.

In 2005 I was asked by the Howard League for Penal Reform to lead an independent inquiry into the use of restraint, solitary confinement and strip-searching in penal institutions for children. The inquiry was launched in the wake of the deaths of 15-year-old Gareth Myatt, who died whilst being restrained by officers, and 14-year-old Adam Rickwood, who was found hanging in his cell after he had been restrained by staff.

The rationale for the inquiry was that the rule of law and the protection of human rights should apply to all children equally, regardless of whether they are detained or in the community. The treatment children receive in custody should not risk making them more dangerous, more likely to commit criminal or anti-social acts, or more violent on release than on reception. The standards we applied were designed to uphold human rights, but also, and just as importantly, to ensure that children learn how to respect others and to avoid resort to conflict and violence. The way they are treated in custody will determine whether they consider violence as an acceptable way to reduce conflict when they are released. All the children we met, and all the children in custody since and now, are going to be released back into the community, some in days and some after a longer time.

The findings of the inquiry were published in 2006.¹ They included recommendations that restraint should never be used as a punishment or to secure compliance; that the infliction of pain was unacceptable and may be unlawful; that strip-searching should be risk-led; and prison segregation units should not be used for children.

10 years on

Ten years have now passed since the inquiry concluded and there is much to celebrate in youth justice, not least the reduction in the number of children in custody in England and Wales. At the time of the inquiry, there were nearly 3,000 behind bars. This has reduced to 1,000. Although there is still further to go to ensure that only the few children who require a period in a secure environment are detained, this is a considerable achievement. The secure estate itself has rapidly shrunk over the last 10 years. My team visited 11 institutions in 2005, only six of which still hold children. As I recommended, there have been particular successes in reducing the number of 'split-site' institutions, where adults and children are detained separately but within the same

prison: there were nine split-site prisons and now there are two. One of the privately-run secure training centres, where Adam Rickwood died, has been closed.

The reductions, however, have also given rise to challenges. Children are now held further away from home and many of the small, local, secure units, highlighted by the inquiry as providing the best care and support for children, have been closed in order simply to make financial savings. In 2005 there were 15 secure children's homes, which held up to 235 children. There are now 10 units with a total of 138 places and this number is set to reduce further in 2016.

There have been particular successes in the treatment of girls in the system. When the inquiry was undertaken, there were over 200 girls in custody, many of whom were incarcerated with adult females, or in small, claustrophobic units attached to women's prisons. The number has now reduced to fewer than 40 and prison service accommodation is no longer used for girls, all of whom are now held in small, secure units.

As recommended by the inquiry, unannounced inspections are now carried out in all establishments at least once a year. HM Inspectorate of Prisons now undertakes joint inspections of secure training centres. The excellent work of the inspectorate has improved scrutiny, transparency and accountability of child custody.

There have also been improvements within custody itself. Social workers are now centrally-funded to work in all penal institutions; a particular success given the over-representation of looked after children in the youth justice system. There have been advances in the provision of education, mental health assessments and treatment and staff training.

More fundamental questions still need to be asked, however, about the number of children that are sent to prison. Although there has been an overall welcome reduction, the number of white boys has reduced at double the rate compared to the number of Black, Asian and Minority Ethnic (BAME) boys. BAME children now account for 42 per cent of the total child prison population.² Despite a change in legislation³ designed to reduce the use of remand, which came into force in 2012, 1,930 children were remanded to custody in 2013-14, accounting for 21 per cent of the average custodial population. Of these, 62 per cent were not given a custodial sentence. Of these, 25 per cent were acquitted.⁴ This is, clearly, unacceptable.

1. Lord Carlile of Berriew (2006) *An Independent Inquiry into the use of physical restraint, solitary confinement and forcible strip-searching of children in prisons, secure training centres and secure children's homes*. London: Howard League for Penal Reform.
2. Ministry of Justice and Youth Justice Board (2016) *Youth Custody Report: November 2015*. London: Ministry of Justice and Youth Justice Board.
3. Section 98 and 99 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012.
4. Ministry of Justice (2015) *Youth Justice Statistics 2013/2014: England and Wales*. London: Ministry of Justice.

More needs to be done to prevent children coming into contact with the youth justice system in the first place. As gatekeepers to the system, police play a key role in this and a move away from target-driven policing to community resolution and restorative justice has helped to reduce unnecessary child arrests. Figures collated by the Howard League show that the number of child arrests has reduced by almost two thirds since 2008.⁵

In 2014 the findings of a parliamentarians' inquiry I chaired into the operation and effectiveness of the youth court were published.⁶ In the report we suggested a range of reforms, which are designed to divert children from the formalities of the criminal justice process, in which often they flounder with little understanding. Where possible, children should not be taken before a court. Diversionary schemes, challenging options that oblige children and their parents and guardians to confront the problems in their lives, will often be better value than the sometimes clunking processes of the courts. Where a more formal disposal is required, the courts must ensure that justice is done which serves the interests of victims, perpetrators, and society as a whole.

As part of the inquiry, numerous visits to courts were undertaken. In one case observed by our researcher and rapporteur, a teenage boy was being prosecuted for causing unnecessary fear, alarm and distress. The boy had been self-harming and in desperation a family member called the police. The 'fear, alarm and distress' the boy was subsequently prosecuted for was the police officer's at seeing the self-harm. When questioned, the CPS solicitor refused to drop the prosecution as it 'was in the public interest'. The case is a parable of how things should not be done and the progress that needs to be made to ensure that, as a society, we are not criminalising vulnerability.

Safeguarding

Although progress has been made in the last 10 year, it is somewhat overshadowed by the decline in safety levels in children's prisons. In his latest annual report, HM Chief Inspectorate of Prisons stated: '*Establishments struggled to control violence and bullying. In all establishments, there were fights and assaults almost every day*' and prisons '*have struggled to manage these children safely*'.⁷ Given that the

original inquiry was established following the deaths of Gareth Myatt and Adam Rickwood, it is particularly distressing that five more boys have died in prisons:

– Liam McManus, aged 15, died at Lancaster Farms prison in November 2007 after he was found hanging from a bed sheet in his cell. The jury at his inquest blamed 'systemic failings' which meant that there was a 'failure to protect' Liam.⁸

– Ryan Clarke, aged 17, died at Wetherby prison in April 2011. The jury at his inquest concluded that Ryan's actions were more of a 'cry for help' rather than intentional hanging, and ruled by majority that his death was accidental.⁹

– Jake Hardy, aged 17, died in hospital having been found hanging in his cell at Hindley prison in January 2012. The jury at his inquest concluded that a series of 12 individual failures more than minimally contributed to his death and that his decision to hang himself could have been prevented.¹⁰

– Alex Kelly, aged 15, died in hospital having been found hanging in his cell at Cookham Wood prison in January 2012. The jury at his inquest concluded that numerous failures led to Alex's death and that he took his own life, but his intention at the time cannot be proven beyond reasonable doubt.¹¹

– A boy was found dead at Cookham Wood prison in July 2015.

At the time of writing, there was no further information regarding his age or circumstances, although the Youth Justice Board (YJB) has stated that it 'have [sic] no indication that the young person took their own life or that the circumstances were suspicious'.¹²

In 2013 the Prison and Probation Ombudsman (PPO), published a 'lessons learnt' report into the deaths of Ryan, Jake and Alex.¹³ Key findings included:

– Children had been inappropriately placed in prisons against the recommendations of youth offending teams (YOTs) that they should be in smaller, more specialist units.

– Once in the prisons, two of the boys continued to show signs of extreme vulnerability, including withdrawing from social contact and self-harm.

– Two of the children were looked after children and the third had a statement of special educational needs. Two were in custody for the first time; the other had only spent a brief period in prison on remand. These are known static risk

More needs to be done to prevent children coming into contact with the youth justice system in the first place.

5. Howard League for Penal Reform (2014) *Child arrests in England and Wales 2013: Research Briefing*. London: Howard League for Penal Reform.
6. Lord Carlile of Berriew CBE, QC (2014) *Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the*
7. Her Majesty's Chief Inspector of Prisons for England and Wales (2014) *Annual Report 2013-2014*. London: HMSO.
8. BBC News (2009) *Care teams blamed for boy's death*. 13 November.
9. INQUEST (2014) *Serious failures identified by jury at inquest into death of 17 year old Ryan Clark at HMYOI Wetherby*. 28 January.
10. INQUEST (2014) *Inquest into the death of 17 year old Jake Hardy at HMYOI Hindley begins*. 24 February.
11. INQUEST (2014) *Inquest into the death of 15 year old Alex Kelly at HMYOI Cookham Wood begins*. 10 November.
12. Youth Justice Board (2014) *Deaths in Custody: Action taken, lesson learnt*. London: Youth Justice Board.
13. Prisons and Probation Ombudsman (2013) *Child Deaths: Learning from PPO Investigations into three recent deaths of children in custody*. London: Prisons and Probation Ombudsman.

factors for self-harm. Yet, there were inconsistencies in the assessment and evaluation of the risk these children posed to themselves.

- All three children entered custody with previously diagnosed mental health conditions, which were not adequately catered for.

- There were issues with poor assessments, missed medication and a lack of an escalation in mental health support provided, despite acts of self harm and concerns being raised by staff.

- There is evidence that two of the children were bullied, yet the investigations found that staff were aware of, or suspected, this bullying, but there was a lack of a robust response.

- There was a lack of a consistent and reliable staff presence.

The PPO concluded that:

‘Many of the issues raised by the three recent deaths are not unique. The impact of bullying, weaknesses of reception assessments of vulnerability and mental health, weaknesses of personal officer schemes and problems with ACCTs (Assessment, Care in Custody and Teamwork assessments) have been identified in our past investigations of child deaths between 2004 and 2007.’¹⁴

In 2014 Lord Harris of Haringey was asked to lead a review of the 83 self-inflicted deaths of young people aged 18-24 years old in prisons between 2007 and 2013. The inquiry was expanded, however, to include the deaths of children in the same period. ‘The Harris Review: Changing Prisons, Saving Lives’¹⁵ was published in July 2015 and made 83 wide-ranging recommendations. At the time of writing, the government had not published its response to the review, but it is hoped that radical changes can be made. As Lord Harris concludes: ‘Not to implement our recommendations would mean that the opportunity to reduce the number of deaths of people, of all ages, has not been taken and will continue to die alone and miserable in prisons in one of the richest countries in the world’.¹⁶

Restraint

I have been disappointed too by the slow progress in developing and implementing one safe and certified

technique to be used on children across the secure estate. I recommended in 2006 that this was a matter of urgency. Numerous inquiries and boards have been set up and reported in the intervening period. In 2012 the government, finally, announced a new system of restraint for use in children’s prisons: ‘Minimising and Managing Physical Restraint’ (MMPR), which has been slowly rolled out, although, at the time of writing the YJB is proposing to pause its implementation in order to realise £800,000 of in-year savings.¹⁷

There are, however, some key concerns with the new system. There are three techniques that cause the deliberate infliction of short bursts of pain on children, despite my recommendation that they are unacceptable and may be unlawful. In Wetherby prison, initial data on MMPR showed that pain had been deliberately inflicted on children 23 times in six months.¹⁸ I recommended that restraint should never be used primarily to secure compliance. The use of force for ‘good order and discipline’ (or ‘passive non-compliance’ as it has since been renamed) continues to be widespread in young offender institutions (YOIs), in one prison accounting for over a third of all restraints.¹⁹ I also recommended that handcuffs should not be used on children, but they are still permitted in the privately-run secure training centres and YOIs. In one prison they were used 86 times on children in six months.²⁰

In 2006 I recommended that there should be improvements to the recording and monitoring of the use of restraint on children. This has been implemented. In 2010, the Ministry of Justice published annual data showing for the first time a detailed breakdown of the use of recorded restraint and the number of injuries to children following its use. What these figures show, however, is that although the number of use of force incidents has reduced in children’s prisons, the rate per 100 children in prison has more than doubled in the last five years. The latest statistics show that there were 5,714 incidents of restraint in the secure estate in 2013/14, down by 12 per cent on the previous year. However, the number of restraints per 100 children increased to 28.4 from 23.8 in the previous year.²¹ The statistics also show that there were 120 injuries suffered by children as a result of the use of force last year. 1,060 injuries were caused

At the time of writing, the government had not published its response to the review, but it is hoped that radical changes can be made.

14. Ibid, p.8.

15. Lord Harris of Haringey (2015) *Changing Prisons, Saving Lives: Report of the Independent Review into Self-Inflicted Deaths in Custody of 18-24 year olds*. Cm 9087. London: HMSO.

16. Ibid, p.6.

17. Youth Justice Board (2015) *Proposal to reduce the YJB’s expenditure in 2015/16*. London: Youth Justice Board.

18. Youth Justice Board (2015) *Statistical Notice: Minimising and Managing Physical Restraint (MMPR) Data Collection April 2014 – September 2014*. London: Youth Justice Board.

19. Ibid.

20. Ibid.

21. Ministry of Justice (2015) *Youth Justice Statistics 2013/2014: England and Wales*. London: Ministry of Justice.

as a result of the use of force between 2009-14, 61 of which were classed as 'serious injury requiring hospital treatment'.²² This slow and piecemeal progress in implementing the recommendations of my inquiry means that children continue to be placed in danger. The continued and widespread use of pain compliant methods of restraint on children and the use of force to secure compliance should be viewed as a failure.

Segregation

In 2006 the inquiry reported on the largely hidden world of prison segregation. We found that most segregation units, which were known by a range of euphemisms, were little more than bare, dark and dank cells that in effect were inducements to suicide. In the intervening years, little has changed. There is no central data on the number of children placed in segregation units, the length of confinement or reasons for confinement. However, the latest survey of children in prison found that 28 per cent had been held in segregation at some point.²³ Children spent 7,970 days in prison segregation units in 2013/14.²⁴ HM Chief Inspector of Prisons has stated that: *'Conditions for children in segregation units were poor and they were locked up for far too long.'*²⁵ At Feltham prison, 394 children were put on the segregation unit in the last year. One child was held there for 39 days.²⁶ At Cookham Wood prison, *'at one time during the period when staff were able to deliver little more than the basic care'* five children were held in segregation between 98-168 days.²⁷ At Wetherby prison, inspectors found that one child had been segregated for 66 days and another two boys for 46 days.²⁸ The regimes on segregation units are limited, such as at Wetherby prison, where inspectors found: *'The regime on the unit was inadequate. All the boys we spoke to told us they spent most of their time locked in their cells. There was little evidence of any constructive activities, although staff sometimes allowed boys out of their cells to carry out cleaning work on the unit.'*²⁹ In recent years, due to a combination of staff shortages and an increase in violence, children's prisons have

increasing imposed restricted regimes, either across entire institutions or to 'manage' individual children, which includes locking them in their cells for 23 hours a day. The inspection of Feltham prison found that 26 per cent of the children being on restricted regimes, which meant that they *'were in effect experiencing solitary confinement on their residential units.'*³⁰ This must be addressed with urgency.

Strip-searching

My inquiry reported on the abhorrent practice of the routine strip-searching of children. We concluded that:

Within the custodial context a strip-search is more than just the removal of clothes for a visual inspection. It is a manifestation of power relations. A strip-search involves adult staff forcing a child to undress in front of them. Forcing a person to strip takes all control away and can be demeaning and dehumanising.

The progress over the last 10 years has been slow but ultimately, successful. Routine strip-searching in secure children's homes and secure training centres, including on reception, was banned and replaced by an entirely risk-based approach. Following a review by the YJB conducted against the background in 2007 of the Gender Equality Duty and the Corston Report, routine strip-searching of 17-year-old girls in prison service units was replaced by a risk-based approach. In 2012 the prison rules were amended to introduce a risk-based approach replaced routine strip-searching in all aspects in boys YOIs, with the exception of on initial reception. Following successful and continued lobbying by the Howard League,³¹ the Ministry of Justice agreed to introduce pilots using a risk-based approach on reception. They were successful and in 2014 the prison rules were changed so that children do not have to strip on arrival. 10 years on from my inquiry, this is a welcome success in bringing to an end such an unnecessary, degrading and barbaric practice. That is a cause for celebration.

22. Ibid.

23. Prime, R. (2015) *Children in Custody 2013-2014: An analysis of 12-18 year olds' perceptions of their experience in secure training centres and young offender institutions*. London: HM Inspectorate of Prisons and Youth Justice Board.

24. Hansard. HC Deb. 7 November 2014.

25. Her Majesty's Chief Inspector of Prisons for England and Wales (2014) *Annual Report 2013-2014*. London: HMSO.

26. See: <http://data.parliament.uk/DepositedPapers/Files/DEP2015-0074/216277-216278-216279-216280-216281-IWWW.PDF>

27. Independent Monitoring Board (2014) *HM YOI Cookham Wood: Annual Report of the Independent Monitoring Board 1 August 2013 – 31st July 2014*. London: Independent Monitoring Board.

28. Her Majesty's Inspectorate of Prisons (2014) *Report of an unannounced inspection of HMP & YOI Wetherby 7-8 October 2013*. London: Her Majesty's Inspectorate of Prisons.

29. Her Majesty's Inspectorate of Prisons (2015) *Report of an unannounced inspection of HMP & YOI Wetherby 12-23 January 2015*. London: Her Majesty's Inspectorate of Prisons, 30.

30. Her Majesty's Inspectorate of Prisons (2015) *Report of an announced inspection of HMYOI Feltham 11-24 August 2014*. London: Her Majesty's Inspectorate of Prisons, 6.

31. See: http://www.howardleague.org/fileadmin/howard_league/user/pdf/Letters/Letter_to_Jeremy_Wright.pdf

Treatment and management of young offenders in the criminal justice system:

A European perspective

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Many British citizens have sympathy for the ‘splendid isolation’ of their country, and the recent Brexit vote may reinforce these thoughts. However, rational skepticism still requires keeping eyes open to developments in other parts of the world and, in particular, in continental Europe. In concordance with this view the editors of this special issue have asked us to contribute an article on young offenders that looks beyond the British border.

Different legal, political and social framing conditions make transnational comparisons difficult and do not allow very simple statements of what is good or bad here and there. From this point of view we address various issues of dealing with young offenders. At first, age thresholds of criminal responsibility, detention of youth and application of adult criminal law will briefly be discussed. Second, we address the often neglected group of *young adult offenders* and discuss reasons why they need more attention. The article ends with conclusions for research and practice.

Age thresholds and criminal justice for young offenders

The topic of ‘young offenders’ is somewhat vague because legal definitions of juvenile and adult offenders are internationally different. This is shown in Table 1 that contains age thresholds of criminal responsibility, application of adult criminal law, practices of detention, and legal majority. Due to space limits we only mention a few exceptions from general regulations. It should also be noted that in many countries thresholds apply to the age at the offence, whereas others refer to the age of sentencing. In most countries 14 plus/minus 1-2 years is seen as the appropriate age of criminal responsibility. Some countries such as Germany can make exceptions on the basis of the developmental state of the young offender. England and Wales are still at the lower end of the age range. Since the 1960 report of the Home Office (Ingleby) Committee on Children and Young Persons there have been repeated proposals for a change, yet the Government has no plans for raising the age threshold above 10 years.¹ International

differences are primarily based on legal and political traditions and not on clear scientific criteria for a threshold of criminal responsibility. The assumption of a definite general stage of development at a specific age is contradicted by psychological research on developmental flexibility. Research shows no clear age-related phases or stages but much inter-individual variation in cognitive, moral, physical and social development.² Taking this into account, an age of criminal responsibility between 12-15 years is most plausible from a scientific point of view. Some research seems to suggest a lower threshold because already children at age 10 understood the wrongfulness of offences such as theft.³ However, cognitive understanding in an experiment with case vignettes does not necessarily imply the ability to control behavioural impulses in real life.

From both a human rights and practical perspective it is important what measures of case management, education, treatment and protection of the public are most appropriate. In this respect, at younger ages social welfare and youth services are more suitable than pure punishment and incarceration. This is partly reflected in the large variation of detention in Table 1 and also in the use of specific institutions such as secure children’s homes. However, there are no sound international evaluations that compare the effects of such different regulations and practices on an empirical basis.

The large European differences in legal regulations and practices at the lower end of ‘youth’ are mirrored at the upper end. Although nearly all countries give full civil rights to people at age 18, countries vary substantially in the age at which criminal law treats young offenders as ‘adults’. There are countries with a relatively low threshold of 16 years whereas others have a higher limit at age 18. Many countries show some flexibility by using different age thresholds at which the young offender *can* versus *must* be treated as an ‘adult’ within the criminal justice system. In some countries this applies to a period between 15-18 years, but others have specific legal regulations and practices for young offenders up to age 21 and even beyond.

For example, in Germany criminal justice can deal with offenders at age 18-20 years at the time of the offence as ‘youth’ if their personality and live context

1. Lipscombe, S. (2012). The age of criminal responsibility in England and Wales. Standard Note SN/HA/3001. London: Library of the House of Commons.
2. Lösel, F. and Bliesener, T. (1997). ‚Zur Altersgrenze strafrechtlicher Verantwortlichkeit von Jugendlichen aus psychologischer Sicht‘ [On the age threshold of criminal responsibility: a psychological perspective]. *DVJ-Journal*, 8, 388-395.
3. Wagland, P. and Bussey, K. (2015). ‘Appreciating the wrongfulness of criminal conduct: Implications for the age of criminal responsibility.’ *Legal and Criminological Psychology*, online first, DOI: 10.1111/lcrp.12090.

Table 1: Legal age thresholds and practices of criminal justice for young offenders in various European countries^a				
Country	Age of criminal responsibility	Age when adult criminal law can/must be applied	Age range for youth detention/custody or similar forms	Age of legal majority
Austria	14	18/21	14-27	18
Belgium	18/16 ^b	16/18	welfare institution	18
Belarus	16/14 ^c	14/16	14-21	18
Bulgaria	14	18	14-21	18
Croatia	14	18/21	14-21	18
Cyprus	10	16/18/21	14-21	16-18
Czech Republic	15	18	15-19	18
Denmark	15	15/18/21	15-23	18
England/Wales	10	18	10/15-21	18
Estonia	14	18	14-21	18
Finland ^d	15	15/18	15-21	18
France	13/10 ^e	18	13-18/23	18
Germany	14	18/21	14-24	18
Greece	13/8 ^f	18/21	13-21/25	18
Hungary	14	18	14-24	18
Ireland	12/10 ^c	18	10/12/16-18/21	18
Italy	14	18/21	14-21	18
Latvia	14	18	14-21	18
Lithuania	16/14 ^c	14/16	14-21	18
Macedonia	16/14 ^c	14/16	14-21	18
Moldova	16/14 ^c	14/16	14-21	18
Montenegro	14	18/21	14-23	18
Netherlands	12	18/21	12-21	18
Northern Ireland	10	17/18/21	10-16/17-21	18
Norway ^d	15	18	15-21	18
Poland	13 ^a	15/17/18	13-18/15-21	18
Portugal	16/12 ^a	16/21	12/16-21	18
Romania	14/16 ^f	18/21	16-21	18
Russia	16/14 ^c	14/16	14-21	18
Scotland	8 ^g /16	16/21	15-21	18
Serbia	14	18/21	14-23	18
Slovakia	15	18	14-18	18
Slovenia	16/14 ^c	18	14-23	18
Spain	14	18/21	14-21	18
Sweden ^d	15	15/18	14-25	18
Switzerland	10 ^h	18	10-22/17-25/30	18
Turkey	12	18	12-18/21	18
Ukraine	16/14 ^c	14/16	14-21	18

Note. ^aSources: Council of Europe (2008). Commentary to the European Rules for juvenile offenders subject to sanctions or measures. Brussels: Council of Europe; Dünkel, F. and Pruin, I. (2012). 'Young adult offenders in juvenile and criminal justice systems in Europe.' In F. Lösel, A. Bottoms and D.P. Farrington (Eds.), *Young adult offenders: Lost in tradition?* (pp.11-38). Milton Park, UK: Routledge. ^b Only for motoring offences and exceptionally for very serious offences; ^c Only for very serious offences; ^d Only mitigation of sentencing without separate juvenile justice legislation; ^e No criminal responsibility in a strict sense, but application of the Juvenile (Welfare) Law; ^f If there is proof of no discernment at age 14; ^g Only educational sanctions (including closed residential care) and measures.

shows 1) that their intellectual and moral development is still equivalent to a typical youth, or 2) if the circumstances and motivation of the offence are typical for youth. Originally, this regulation in §105 of the German Juvenile Justice Act (JGG; 'Jugendgerichtsgesetz') was conceptualized more as an exception from the application of the general criminal law. However, over time application of §105 JGG to offenders at age 18-20 years became very frequent. There is a substantial variation between the 16 German states in this respect and in some states dealing

with 18-20 year old offenders as juveniles is more the rule than an exception.

The German Juvenile Justice Act is basically oriented towards education and contains a greater variety of community and institutional sanctions than the adult criminal law. Due to the aim of education the minimum youth prison sentence is six months. The maximum length is 5 years, with exceptions for very serious cases (10 years) and extremely serious cases for which adults would get a life sentence (15 years). However, unconditional youth prison

sentences are very rare. In 2013 they accounted for 4.3 per cent of all criminal sanctions for youth.⁴ More frequent were suspended youth prison sentences (6.6 per cent), disciplinary measures such as short youth arrest (11.9 per cent) or fines, cautions, retribution and other community sanctions (36.8 per cent) as well as educational measures such as community service, social training courses etc. (7.8 per cent). Nearly one third (32.7 per cent) of all cases were not formally sanctioned but diverted or dismissed.

According to the aim of education the practice in prisons for juveniles is more oriented towards pedagogy, vocational training and psychosocial treatment than in regular prisons for adults (although reducing reoffending/rehabilitation is also a key aim of the latter). Most recently, various German states also established social-therapeutic departments for serious sexual and violent young offenders. These follow the systems-oriented model of treatment-oriented prisons for adults in Germany.⁵ Beyond such specific developments it is common practice that offenders can stay in prisons for juveniles even when they become 21. This should enable continuity in education, vocational training and psychosocial treatment as far as necessary. Due to these regulations youth prisons in Germany are in fact institutions for young adults. In 2013, for example, only 9.4 per cent of the ca. 5,518 inmates of German youth prisons were juveniles between age 14 and 18. 46.2 per cent were between 18-20 years old, and 44.4 per cent were 21 or older.⁶

As in other countries, criminal justice for young adults in Germany is discussed controversially. In 2013 79 offenders per 100,000 of the population were incarcerated in Germany, whereas England and Wales had a rate of 148.⁷ This difference cannot simply be explained by different crime rates, but seems to express traditions of punitiveness. Similar to Germany, England and Wales have education-oriented Young Offender Institutions (YOIs) for people aged 15 to 21 (with an internal separation of youngsters under 18). However, in comparison to Germany and various other countries there is a stricter legal and practical cut at age 18 and, in particular, at age 21. Over the last decade, the 'Transition to Adulthood (T2A) Alliance', convened and funded by the Barrow-Cadbury Trust, has proposed changes in the criminal justice system that should better meet the needs of young adult offenders who are at risk to become lost in transition.⁸

Reasons for a special focus on young adult offenders

Young adult offenders are not a small group. In England and Wales 15,443 men aged between 18 and 20 were in custody, served a sentence in the community or were on licence at the end of 2013. Most of them were managed in the community by Community Rehabilitation Companies (59 per cent) or the National Probation Service (13 per cent). 28 per cent were in custody. There are many reasons why young adult offenders should not simply be dealt with like older adults. Such arguments have been put forward by T2A, and the Barrow Cadbury Trust is funding various practice projects of the police, prison and probation service for young adult offenders in Britain. In the present article we will only address a few points that are relevant internationally.

1. Socio-cultural extension of youth: Since the Second World War the situation of young people in Western societies has changed considerably. On the one hand, physical acceleration, more liberal parenting, relatively good economic circumstances, access to the internet and other changes led to an earlier onset of a youth lifestyle (e.g. going out at night, drinking alcohol, smoking, travelling with friends, having sexual relations etc.). On the other hand, coping with important developmental tasks became more extended beyond traditional 'youth' (e.g. secondary education, regular work, financial independence from parents, founding of an own family). For example, over the last 40 years the mean age at marriage in the European Union has increased from ca. 23 to ca. 28 for females and ca. 25 to 30 for males. The mean age of mother- and fatherhood increased similarly. In countries with a dual system of academic and vocational training such as Germany, in the 1950s ca. 70 per cent of youngsters left school at age 14-15, went through an apprenticeship of three years, and then most of them got a permanent job with an income that enabled an independent life. In contrast, today's young people are much longer at school and in higher education and often get only short fixed-term or trainee jobs after that. The mean age of financial independence increased to ca. 25 years. In most European countries a majority of legally 'adult' young people live at home with their parents. The recent financial crisis and high unemployment in the young population have further increased this development, particularly in Southern Europe. Youngsters with low qualification are often 'losers' on the job market. Since offending of young people is related to

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- 4. Jehle, J.-M. (2015). *Strafrechtspflege in Deutschland*, 6. Aufl. [Criminal justice in Germany, 6th ed.]. Mönchengladbach: Forum Verlag Godesberg.
 - 5. Lösel, F. and Egg, R. (1997). 'Social-therapeutic institutions in Germany: Description and evaluation.' In E. Cullen, L. Jones and R. Woodward (Eds.), *Therapeutic communities in prisons* (pp. 181-203). Chichester: Wiley.
 - 6. Jehle (2015), see footnote 4.
 - 7. Walmsley, R. (2013). *World prison population list* (10th ed.). London: King's College.
 - 8. Barrow Cadbury Trust (Ed.) (2005). *Lost in transition*. London: Barrow Cadbury Trust. Barrow Cadbury Trust (Ed.) (2009). *Economic analysis of interventions for young adult offenders*. London: Barrow Cadbury Trust. Pruin, I. and Dünkel, F. (2015). *Better in Europe? European responses to young adult offending*. London: T2A. See also Lösel, F., Bottoms, A.E. and Farrington, D.P. (Eds.) (2012). *Young adult offenders: Lost in transition?* Milton Park, UK: Routledge.

problems of coping with transitions,⁹ lack of a stable perspective, self-efficacy and identity in young adulthood contains risks for antisocial behavior. This view is supported by analyses showing that young adults are at high risk of social exclusion.¹⁰

2. Neuropsychological development: The social-cultural extension of youth into young adulthood is mirrored by findings from neuropsychological research. Although general intelligence is more or less stable at age 18, higher executive functions of the brain that are relevant for delinquency (e.g., planning, verbal competence, time perspective and self-control) are not mature before the mid-twenties.¹¹ This seems to be particularly the case for features of temperance, that is the ability to limit impulsiveness, to control aggressive responses and risk-taking, and to thinking before acting. Such findings are in accordance with data on ongoing myelination, white matter increases and pruning of synapses in young adulthood.¹² Areas of the prefrontal cortex that are related to antisocial traits mature lately and are functionally and structurally less developed in personality-disordered criminals.¹³ Competences to plan ahead, defer gratification and exercise self-control are core constructs in evidence-based theories of delinquency.¹⁴ Such neuropsychological characteristics are not fully developed in late adolescence but grow from early youth into young adulthood.¹⁵

3. Prevalence of offending: The prevalence of offending by young adults is similarly high as for juveniles. Although the typical age-crime curve shows an increase during youth and a peak around age 18, there are differences with regard to

crime types (e.g. a later peak in violence and drug offending), measures of assessment (self-report vs. official data) and between countries.¹⁶ The prevalence of offending of young adults is not only particularly high, but various countries experience an extension from the peak in late adolescence to young adulthood. For example, in Germany the longer-term decrease in the prevalence of young suspects (per 100,000 of the respective age group) is consistent to the widely discussed international crime drop.¹⁷ However, the prevalence is no longer the highest for juveniles but for those at age 21-25 and, in particular, at age 18-20. Similar developments were reported from police statistics in the Netherlands (with some discrepancy to self-report data).¹⁸ Many social and psychological factors may be relevant for the challenging crime problems in young adulthood.

4. Continuity of offending: Numerous criminological studies have shown that there is a decrease or desistance from crime in young adulthood. However, this process is not a sudden change and different for various types of crime. For example, drug dealing and gun carrying has a relatively late onset in adolescence and many drug dealers persist into adulthood.¹⁹ Although approximately 50 per cent of official offenders desist by early adulthood, the other half is continuing and a substantial part of them exhibits even more severe offending such as violence.²⁰ There is also evidence for an increasing group of offenders with a 'late onset' in early adulthood.²¹ A peak of criminal activity in early adulthood instead of late adolescence is most probable for low, medium and high chronic

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15. Lösel, F. (1975). *Handlungskontrolle und Jugenddelinquenz: Theoretische Integration und empirische Prüfung* [Self control and juvenile delinquency: Theoretical integration and an empirical test]. Stuttgart: Enke.
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17. Steinberg, L. (2004). 'Risk taking in adolescence: What changes and why?' *Annals of the New York Academy of Sciences*, 2012, 51-58. See also F. Lösel, A. Bottoms and D.P. Farrington (2012). 'Introduction.' In F. Lösel, A. Bottoms and D.P. Farrington (Eds.), *Young adult offenders: Lost in tradition?* (pp. 1-10). Milton Park, UK: Routledge.
18. Piquero, A.R., Farrington, D.P. and Blumstein, A. (2007). *Key issues in criminal career research: New analyses of the Cambridge Study in Delinquent Development*. Cambridge, UK: Cambridge University Press.
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20. Tseloni, A., Mailley, J., Farrell, G. and Tilley, N. (2010). 'Exploring the international decline in crime rates.' *European Journal of Criminology*: 7, 375-394.
21. Farrell, G. (2013). 'Five tests of a theory of the crime drop.' *Crime Science*, 2:5, 1-8.
22. Lösel, F., Bender, D., Sünkel, Z. and Stemmler, M. (2016). 'Self-reported juvenile delinquency in three surveys over 38 years: A German study on the crime drop.' In A. Kapardis and D.P. Farrington (Eds.), *The psychology of crime, policing and courts*. (pp.24-43). Milton Park, UK: Routledge.
23. Van der Laan, P.H., van der Laan, A.M., Hoeve, M., Blom, M., Lamet, W.H. and Loeber, R. (2012). 'Offending and justice response at the juvenile-adult interface.' In R. Loeber, M. Hoeve, N.W. Slot and P. van der Laan (Eds.), *Persisters and desisters in crime from adolescence into adulthood* (pp. 201-238). Farnham, UK: Ashgate.
24. Rosenfeld, R., White, H.R., & Esbensen, F.A. (2012). 'Special categories of serious and violence offenders: Drug dealers, gang members, homicide offenders, and sex offenders.' In R. Loeber and D.P. Farrington (Eds.), *From juvenile delinquency to adult crime: Criminal careers, justice policy and prevention*. New York: Oxford University Press.
25. Loeber et al. (2013), see footnote 16.
26. Piquero, A.R., Hawkins, J.D. and Kazemian, L. (2012). 'Criminal career patterns.' In R. Loeber and D.P. Farrington (Eds.), *From juvenile delinquency to adult crime: Criminal careers, justice policy and prevention*. New York: Oxford University Press

offenders.²² Those who were already more active criminals in youth have an enhanced risk of continuity into adulthood.²³ Desistance is a more or less continuous process.²⁴ Accordingly, there is no sharp developmental cut-off between 'juvenile' and 'adult' offenders at around age 18. This view is underlined by data on reoffending after official sanctions. For example, official statistics from England and Wales show only a slight decrease in reoffending rates within one year between age 18 and 30 after a custodial or community sanction.²⁵ This is supported by data from other countries. For example, in a cohort from the Netherlands, the recidivism rates of juvenile and young adult male offenders were nearly the same and some data suggest a rather late-starting desistance around age 30.²⁶

5. *Differences between young adult and older offenders:* Young adult offenders differ in various aspects from older offenders. For example, the British Surveying Prisoner Crime Reduction (SPCR) cohort study²⁷ compared 'adult offenders' (age 21 and older) with 'young offenders' (age 18-20). A much larger proportion of young offenders had received a sentence of one to four years (52 per cent vs. 29 per cent) and more had been sentenced for violent offences (22 per cent vs. 17 per cent) or robbery (11 per cent vs. 1 per cent). Before incarceration, more young offenders had lived with their parents or step-parents (59 per cent vs. 20 per cent), had been regular truants (70 per cent vs. 55 per cent) and excluded from school (52 per cent vs. 37 per cent). More young offenders reported heavy drinking (42 per cent vs. 35 per cent). The pattern for drug use was mixed, but young adult prisoners showed more use of cannabis, ecstasy and cocaine powder. A majority of young adults are sentenced for violent and acquisitive offending, more often for possession or small supply of drugs and also have higher reoffending rates than older adults.²⁸ In custody they show more violence, self-harm and other risks.²⁹ Similar differences between young and older adult offenders have been

reported in other countries. For example, a comparison in the Netherlands Probation Service showed different risk profiles between offenders at age 17-24 and age 25+. In the younger vs. older cohort the following risk domains were present or seriously present: delinquency (38 per cent vs. 26 per cent), education, training and employment (61 per cent vs. 46 per cent), relationship with friends and peers (50 per cent vs. 22 per cent), drug use (36 per cent vs. 27 per cent), thinking patterns, behaviour and skills (84 per cent vs. 77 per cent), attitudes (45 per cent vs. 37 per cent).³⁰ Since these factors were related to unsuccessful completion of supervision, the differences underline the enhanced risk of recidivism in young adults.

6. *Differences between young adult and juvenile offenders:* Although many young adult offenders are still maturing, they are not simply juveniles, but show mixed characteristics of both age periods. According to Moffitt independence from parents, an own identity, intimate relationships, and vocational issues become more important during adolescence and successful coping with such developmental tasks often lead to desistance from juvenile delinquency.³¹ In the Cambridge Study in Delinquent Development early risk factors for juvenile and young adult offending were partly similar.³² Persistence after young adult offending depended on risks such as heavy drinking or an unsuccessful life in various domains. Dutch research suggests that the pattern of risk factors for recidivism is somewhat changing over time.³³ Problems at school and in the core family became less important, whereas substance misuse, partner problems, vocational issues and criminogenic thinking/attitudes became more relevant. Although there was some change in the correlations between recidivism and peer group influences, the latter were still important in comparison to the mostly small correlations of other single risk factors. Programmes for young adults do not need to address basically new dynamic risk factors (e.g. self- and emotional control is as important as in youth and later

22. Sampson, R.J. and Laub, J.H. (2003). 'Life-course desisters? Trajectories of crime among delinquent boys followed to age 70.' *Criminology*, 41: 555-592.

23. Loeber, R. et al. (2013), see footnote 16.

24. Bottoms, A. and Shapland, J. (2011). 'Steps towards desistance among young male adult offenders.' In S. Farrall, M. Hough, S. Maruna and R. Sparks (Eds.), *Escape routes: Contemporary perspectives on life after punishment*. Milton Park, UK: Routledge.

25. Ministry of Justice (Ed.) (2015). Proven re-offending statistics quarterly bulletin April 2012 to March 2013, England and Wales. London: Ministry of Justice.

26. Blokland, A.A.J. and Palmen, H. (2012). 'Criminal career patterns'. In R. Loeber, M. Hoeve, N.W. Slot and P. van der Laan (Eds.), *Persisters and desisters in crime from adolescence into adulthood* (pp. 13-50). Farnham, UK: Ashgate.

27. Stewart, D. (2008). The problems and needs of newly sentenced prisoners: results from a national survey. Ministry of Justice Research Series 16/08. London: Ministry of Justice. Williams, K., Papadopoulou, V. and Booth, N. (2012). Prisoners' childhood and family backgrounds. Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners. Ministry of Justice Research Series 4/12. London: Ministry of Justice.

28. NOMS (Ed.) (2015). Better outcomes for young adult men: Evidence based commissioning principles. London: NOMS.

29. Liebling, A. (2012). 'Young adult offenders in custodial institutions: vulnerability, relationships and risks.' In also F. Lösel, A. Bottoms and D.P. Farrington (2012). 'Introduction.' In F. Lösel, A. Bottoms and D.P. Farrington (Eds.), *Young adult offenders: Lost in tradition?* (pp. 65-73). Milton Park, UK: Routledge.

30. Spanjaard, H.J.M., van der Knaap, L.M., van der Put, C. E. and Stams, G.J.J.M. (2012). 'Risk assessment and the impact of risk and protective factors.' In R. Loeber, M. Hoeve, N.W. Slot and P. van der Laan (Eds.), *Persisters and desisters in crime from adolescence into adulthood* (pp. 127-158). Farnham, UK: Ashgate.

31. Moffitt (1993), see footnote 9.

32. Farrington, D.P. (2012). 'Childhood risk factors for young adult offending.' In F. Lösel, A. Bottoms and D.P. Farrington (Eds.), *Young adult offenders: Lost in tradition?* (pp. 65-73). Milton Park, UK: Routledge.

33. Spanjaard et al. (2012), see footnote 29.

adulthood). However, more than at older ages, treatment and management of young adult offenders should place emphasis on identity formation, resistance to peer group influence, experiences of self-efficacy, and a realistic future-orientation.³⁴

7. *Protective factors and desistance*: As mentioned, many young adult offenders still live with their family and have education and employment problems or criminogenic peer group influences. However, their criminal career is not yet as consolidated as it is the case in older chronic offenders. Therefore, young adulthood is a particular sensitive phase in which natural protective factors and experiences such as family or partner support, labour force attachment, education, new contacts and situations can contribute to desistance.³⁵ Since desistance is a longer process, it is not only necessary to promote protective factors, but also to help mastering obstacles and lapses, for example due to alcohol/drug use and influences of criminal peers.³⁶ Longitudinal research on somewhat older prisoners has shown, that regular contact and good communication with the family during imprisonment are highly important for successful resettlement, even when pre-incarceration factors were controlled for.³⁷

8. *Intergenerational transmission of crime*: The SPCR cohort study has shown that 19 per cent of young adult prisoners already had a child.³⁸ The proportion of prison inmates with young children increases quickly after age 20. Overall the SPCR data suggest that 61 per cent of all male prisoners have a child beyond age 18. Per annum, approximately 200,000 children in UK have a parent in custody. International research has shown that children of incarcerated parents have an increased risk of developing behavioural problems and becoming delinquent.³⁹ Although parental incarceration is only one factor among others that contributes to child behaviour problems, it enhances the risk

of intergenerational transmission of offending. Various studies have shown crime transmission to the second and even third generation.⁴⁰ However, the cycle of violence and antisocial behaviour is not closed.⁴¹ Therefore, focussing intervention programmes more specifically on the needs of young adult offenders can open a window of opportunity to reduce multigenerational transfer of crime and other psychosocial problems.

Conclusions

As shown above, there is a broad range in age thresholds for criminal responsibility, practice of detention of young offenders and application of adult criminal law in Europe. This variation is in sharp contrast to the nearly uniform definition of legal majority across countries. Taking the heterogeneity and difficulties of a common approach in other European policy areas into account, it is not realistic and perhaps not desirable to aim for homogeneity in youth criminal justice. However, using the available evidence and theoretical considerations, countries should try to increase the rational (and not only traditional) bases of dealing with young offenders. As often discussed in Britain, this applies to very low thresholds of criminal responsibility and early detention. On the upper end of 'youth', our article presented evidence and sound reasons that suggest more flexible and development-oriented approaches in dealing with young adult offenders. This should reduce problems in the transition between the juvenile and adult criminal justice measures and meet the specific needs of this population. More differentiated criminal justice measures during this sensible age period may not only reduce individual recidivism, but also, on the longer term, contribute to a reduction of the high incarceration rates in UK (except Northern Ireland).

34. NOMS (2015), see footnote 24.

35. McNeill, F. 2006. 'A desistance paradigm for offender management.' *Criminology and Criminal Justice*, 6: 39-62. Lösel, F. and Farrington, D.P. (2012). 'Direct protective and buffering protective factors in the development of youth violence.' *American Journal of Preventive Medicine*, 43 (2S1): 8-23. Maruna, S. (2001). *Making good: How ex-convicts reform and rebuild their lives*. Washington, DC: American Psychological Association Books. See also footnote 48.

36. Bottoms and Shapland (2011), see footnote 24.

37. Markson, L., Lösel, F., Souza, K., and Lanskey, C. (2016). 'Male prisoners' family relationships and resilience in resettlement.' *Criminology and Criminal Justice*, 15: 423-441. Lanskey, C., Lösel, F., Markson, L. and Souza, K.A. (2016). 'Children's contact with imprisoned fathers and the father child relationships after release: An interactional perspective.' *Families, Relationships and Societies*, 5, 43-58.

38. Williams et al. (2012), see footnote 27.

39. Murray, J., Farrington, D.P. and Sekol, I. (2012). 'Children's antisocial behavior, mental health, drug use, and educational performance after parental incarceration: a systematic review and meta-analysis.' *Psychological Bulletin*, 138: 175-210.

40. Besemer, S., van der Geest, V., Murray, J., Bijleveld, C. C. J. H. and Farrington, D. P. (2011). 'The relationship between parental imprisonment and offspring offending in England and The Netherlands.' *British Journal of Criminology*, 51: 413-437.

41. Widom, K.S., Czaja, S.J. and DuMont, K.A. (2015). 'Intergenerational transmission of child abuse and neglect: Real or detection bias?' *Science*, 347: 1480-1485.

Vulnerability of Young Adults in Custody:

The Harris Review Case for increased support

Lord Toby Harris and Dr Deborah Browne, *Harris Review into Self-inflicted Deaths in Custody of 18-24 year olds.*

'You don't become a man overnight. One minute you are under 18 and you are a child and next minute they say that you are a man.'

(Parent of a young adult who took his own life)

In February 2014, the Ministry of Justice announced an independent review into self-inflicted deaths in NOMS custody of 18-24 year olds. The Review panel, led by Lord Toby Harris, examined whether appropriate lessons had been learned from the self-inflicted deaths of young adults that had occurred after the introduction of the Assessment, Care in Custody and Teamwork (ACCT) system for managing those who are believed to be at risk of self-harm or suicide. The Review used a multi-methods approach, including the commissioning of a review into the literature and independent qualitative research on staff experience, a survey of young adults in custody, consultation with a range of senior experts, stakeholders, family members and young adults themselves, the consideration of submissions sent to the Review, and an unprecedented examination of case material for the 87 cases (83 young adults and 4 children under 18) who died between April 2007 and December 2013. The final report, *Changing Prisons, Saving Lives*,¹ was published in July 2015 and sets out 108 recommendations that call for a re-thinking of the purpose of prison, a strengthening of leadership to ensure the most vulnerable young offenders are diverted from custody and, when custody is inevitable, in ensuring they are more effectively supported through their rehabilitation and safe reintegration into society. While many of the recommendations are applicable to all of those in custody, the Review was commissioned to focus on young adults (18-24) and many of the findings are applicable specifically for this age group. This paper focuses on the distinct characteristics of young adulthood

and how the evidence we examined suggested that these traits seem to increase the vulnerability of this particular age group in custody.

Maturity, Development and Young Adulthood

Young adulthood has long been recognised as a distinct stage of human development in its own right, continuing the adolescent transition to maturity.² Research now shows that brain structures continue to mature and develop well into the twenties.³ Particular behaviours that are associated with these brain structures are slower to develop. In their review of maturity in young adults in the criminal justice system, Prior et al⁴ suggested that one of the consequences of this prolonged period of development and maturation of the brain is that *'temperance (evaluating consequences of actions, limiting impulsivity and risk-taking is a significant maturity factor that continues to influence antisocial decision-making among young adults.'*

Unlike younger adolescents, however, young adults between 18 and 24 years of age also face various social and legal milestones, including the legal status of adulthood and the rights and responsibilities that this brings. In contrast to the naturally gradual development of brain structures and the cognitive skills to cope with adulthood, the legal status of adulthood is reached overnight. The Bradley Commission's second report, which focuses on young adults in transition, comments *'the line between childhood and adulthood is often socially constructed and artificially drawn, driven by many factors including legislation. In reality a child's pathway to physiological, emotional and psychosocial maturity depends on their individual rate of maturation.'*⁵

1. Harris, T. (2015). *Changing Prisons, Saving Lives. Report of the Independent Review into Self-inflicted Deaths in Custody of 18-24 year olds*. London: HMSO.
2. Arnett, J. (2000). Emerging Adulthood: A theory of development from late teens through the twenties. *American Psychologist*, 55 (5), 469-480.
3. Asato, M. R., Terwillinger, R., Woo, J. & Luna, B. (2010). *White Matter Development in Adolescence: A DTI Study*. *Cerebral Cortex*, 20 (9): 2122-2131.
4. Prior, D., Farrow, K., Hughes, N., Manders, G. & Wilkinson, B. (2011). *Maturity, Young Adults and Criminal Justice: A Literature Review*. University of Birmingham paper commissioned by Barrow Cadbury Trust for T2A.
5. Saunders, A. (2014). *Young adults (18-24) in transition, mental health and criminal justice. The Bradley Commission, Briefing 2*. London: Centre for Mental Health.

This disparity between the gradual neurological transition and the abruptness with which the developing individual loses the protection of 'childhood' was noted by many of those who responded to the Harris Review's *Call for Submissions*.⁶ Transition to Adulthood Alliance (T2A) explained *'the transition to adulthood is a process not an event and does not begin and end on a person's 18th birthday.'*⁷ It was widely recognised that young adults are still maturing and that the rate of development varies depending on individual characteristics. The Prison Reform Trust told the Review *'maturity is influenced by life experience and individual characteristics, so a simple test of chronological age provides little insight into the vulnerability of the individual young person.'*⁸ These views were also expressed strongly and unanimously by those who attended the Harris Review Roundtable event on Characteristics of Young Adults in December 2014.⁹

Young Adults in the Criminal Justice System

A number of contributions to the evidence considered by the Harris Review pointed out that the Criminal Justice System does not take into account the relative lack of maturity, even though those who come into contact with it appear to demonstrate less mature behaviours. The Criminal Justice Alliance's submission noted *'individuals mature at different rates, and many young adults in the criminal justice system exhibit development levels more characteristic of a far younger group.'*¹⁰ This was supported by comments made by the staff in the establishments that the Review visited, some of whom described behaviour in those terms, referring to acts that were rash or as a front to hide their emotions from their peers. Some of the governors the Review spoke to said that this sort of behaviour was worse in institutions that did not have older adults, who could have a calming influence. The submission from the National Offender

Management Service (NOMS) also pointed out that *'younger adults are more likely to display impulsivity and may pay less heed to potential consequences of their behaviour.'*¹¹ Additionally, the submission from Paul Scoular who is from the Scottish Prison Service noted that *'young offenders tend to be impulsive in behaviour.'*¹²

The Review came across evidence of some of the characteristic behaviours associated with a lack of maturity when panel members spoke to young adults in the establishments. One young man told the Review that he really wanted qualifications, but complained that education services at the establishment (which held 18-24 year olds) was *'like a kid's school'* and so he quit because he *'didn't like school anyhow'*. There did not seem to be anybody at the prison who could help this young man evaluate the longer term consequences of this behaviour.

Similar issues were raised by families, who felt their son or daughter struggled with more adult concepts in prisons. One of the families told the Review that their son was not mature enough to handle planning his budget, explaining *'all the young people are given a phone card of £7.50 for the week. [He] didn't know how to manage money. He was*

*given the card on Friday, by Sunday it was all used up. He then had no way of contacting [me] until his credit was topped up again.'*¹³

Many of those who engaged with the Review pointed out that any inherent difficulties associated with the lack of maturity of young adulthood were compounded for those who came in contact with the CJS by the system itself, particularly the adult system. T2A explained *'19 is the peak age for offending behaviour (for males), but it is also the age at which youth focussed services end... access to supportive services such as mental health, supported living, youth work, education and drug treatment change in nature or*

The Prison Reform Trust told the Review 'maturity is influenced by life experience and individual characteristics...

6. Submissions can be accessed on the Harris Review website: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
7. Submission to the Harris Review received from Transition to Adulthood Alliance on 18 July 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
8. Submission to the Harris Review received from Prison Reform Trust on 18 July 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
9. Summary of meeting is available at: <http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2015/07/Summary-of-Harris-Review-Young-Adult-Characteristics-Round-Table-Event.pdf>.
10. Submission to the Harris Review received from Criminal Justice Alliance on 29 July 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
11. Submission to the Harris Review received from NOMS on 3 February 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
12. Submission to the Harris Review received from Paul Scoular on behalf of the Scottish Prison Service on 8 July 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
13. INQUEST (2015). *Report of the Family Listening Events organised for the Harris Review into Self-Inflicted Deaths in Custody of 18-24 year olds*. Full report is available at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.

cease.¹⁴ The Review noticed a disparity between how those under 18 were supported in comparison to those who were 18 or over. Families of young adults who had died, who the Review team met at a dedicated Family Hearing Day, facilitated by INQUEST, praised the YOT team and the work they did to try and keep the young person out of trouble. One family member said *'I had a good experience with the Youth Offending Team also. There was an excellent support worker... she pushed for him to get support and said she was worried about him.'* Another explained *'the difference is that Youth Offending Team workers are trained to work with young people. They care about young people and get on their level.'*¹⁵ It was emphasised to the Review many times, including at the Harris Review Roundtable on Young Adult Characteristics, that 18-24 year olds in custody, who have varying levels of maturity and whose pathways into custody seem to be very similar to 15-17 year olds, lose the level of protection and support associated with the Youth Justice System abruptly at 18. This is despite the fact that many young adults still need extra support, and also many of them have particular vulnerabilities more common during this time.

The Bradley Commission commented in a briefing note on young adults in transition in the CJS *'it is the norm, not the exception, that young adults in contact with the CJS have multiple vulnerabilities arising from a variety of social, psychosocial and economic factors.'*¹⁶ Indeed, these issues were pointed out repeatedly to the Review in response to the questions we asked about vulnerability in our *Call for Submissions*. The response from INQUEST explained *'early experience of state care, mental health issues, learning difficulties and disabilities are key factors underpinning vulnerability.'*¹⁷ The submissions that the Review received, and in particular the Round table on Young Adult Characteristics, provided evidence of vulnerabilities that included a history of social adversity, neglect, child abuse, mental health or learning difficulties, gang affiliation, and being in the care of the state. Careful consideration of the 87 cases the Review analysed demonstrated that all of these factors were evident repeatedly among the young adults

Strong family relationships have been identified as a protective factor for self-inflicted death in prison...

and children who had taken their own lives. The evidence of multitudinous vulnerabilities was so overpowering, that the Review concluded that **all young adults in custody are potentially vulnerable.**

Adult Support for Young Adults in Custody

One of the 'cliff-edge' changes that happen to a young person who turns 18 in the criminal justice system is that there is no longer an expectation that families will be involved in care and decision-making processes. The Review found that the families of the 18-24 year olds with whom it had contact with were very important to them. Strong family relationships have been identified as a protective factor for self-inflicted death in prison¹⁸ and the young adults spoken to during prison visits consistently talked about how important contact was with their family. Many gave examples of times that prison visits were cancelled or cut short and the negative impact that had on their mental well-being. They also expressed frustration at how difficult it was to make phone calls to their families, some giving moving accounts of when a few words with their mother or father would have helped alleviate distress. A young adult who came to speak to the Review at a special Hearing facilitated by User Voice in September 2014 explained *'when you first go in, all you get is a two minute phone call. You are vulnerable because you have no connection to the outside world that you know. The call is too short.'*¹⁹

As part of its evidence gathering, the Review sent a short, targeted questionnaire to young adult offenders in five establishments. Several of the young adults who responded to this questionnaire mentioned distress caused by separation from their family. In response to the question *'what are the sorts of things about being in prison that you think make someone feel most vulnerable, unsafe, sad or lonely?'*, one 20 year old wrote *'the hardest thing I think is being away from family and I feel sad and lonely because I didn't realise how good my life was until I got put in here.'* Another young adult of 21 years, at a different institution, responded to the same

14. Submission to the Harris Review received from Transition to Adulthood Alliance on 18 July 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
15. INQUEST (2015). Report of the Family Listening Events organised for the Harris Review into Self-Inflicted Deaths in Custody of 18-24 year olds. Full report is available at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
16. Saunders, A. (2014). *Young adults (18-24) in transition, mental health and criminal justice. The Bradley Commission, Briefing 2*. London: Centre for Mental Health.
17. Submission to the Harris Review received from INQUEST on 13 October 2014. Submissions can be accessed at <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.
18. Harvey, J. (2012). *Young Men in Prison: Surviving and adapting to life inside*. Oxford: Routledge.
19. Stakeholder Hearing 14 (4 September 2014) *User Voice*. Summaries of hearings can be accessed at: <http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2015/02/User-Voice.pdf>.

question by saying ‘as a young offender I felt really vulnerable and scared coming to prison. The main issue is loneliness. Prison breaks you away from your family’. Later in the questionnaire, this young adult went on to explain ‘I keep going on ACCT plans because I don’t get visits and don’t see my family I just feel lonely so I get depressed and self harm and then feel suicidal.’

Another method the Review used to gather evidence was through submissions made via messages left on a Prison Radio helpline, which had been solicited through advertisements on Prison Radio and through INSIDE TIME magazine. Messages left on this also showed the impact that separation from family was having on young adults. One young woman, who said she was 20 years of age, described how she tried to harm herself when she came into prison. She explained ‘I did it because I miss my family and I’ve a five year sentence.’ Another caller said ‘I reckon to stop people from committing suicide is they have to be in touch with their families more.’

Accounts such as these were disturbing, and were exacerbated by the evidence that these young adults were experiencing the prison environment as a very harsh place. Some of the messages left on the helpline demonstrated how difficult the callers were finding the prison environment. One young man said ‘the biggest thing for me is I’ve been coming to jail since I was 16. I think a lot of people feel vulnerable because it’s quite intimidating.’ A message left on the helpline from a young man who was being held in a YOI said ‘I’ve been in jail for like 15 months, and ever since I’ve been in jail it’s been like a nightmare. I hate it... jail is a nasty place.’ Another young adult phoning from a YOI said ‘I feel like I’m being threatened all the time, and I’m a vulnerable prisoner, I’m very small. And I don’t feel safe in this jail.’

Although these accounts were disturbing, the Review also found evidence that young adults can be better supported in their separation from their families and the harsh reality of prison environment if the staff that they encounter engage with them in a purposeful way. The importance of prisoner-staff relationships came up repeatedly throughout this Review. It was stressed repeatedly by stakeholders and emerged as a key factor at a Public Hearing the Review held, at a Seminar for Community and Local Groups, and at the Characteristics

of Young Adults Roundtable event. The literature review that the Review commissioned the University of Greenwich to carry out also noted that one of the recurring themes in the literature was the importance of having skilled and motivated staff who can identify individuals at risk of self-harm or suicide and deliver prison regimes with empathy.²⁰

The importance of this relationship has been long recognised. In the 1999 report ‘Suicide is Everyone’s Concern’, it was noted ‘how prison officers do their job can prevent a prisoner feeling panic stricken and isolated and help him or her to settle into an establishment. Engaging constructively with prisoners is the core job of prison officers... By focusing on the needs of prisoners and understanding the connection between the objectives of reducing suicidal behaviour and reducing reoffending, they will be contributing to the essence of a healthy prison. This vision requires staff to model ‘healthy’ positive behaviour to prisoners.’²¹ Similarly, in a literature review on practices and policies on suicide prevention, Bonner (2000) suggested that all prison staff should be made responsible for prevention, and that they should be provided with training and resources to implement their training.²²

The direct engagement of the Review with young adults suggested strongly that relationships with staff are currently mixed. During prison visits, young adults were able to identify staff members that they admired and respected, but also staff members who they felt did not understand them, or who, they claimed, bullied them. The panel noted on a number of occasions that several young adults named the same officers as being the ones they wanted to talk to and spend time with.

Some young adults with whom the review spoke explained that they found it easier to show respect to officers who showed respect back. They complained that some officers were rude and clearly didn’t want to talk to them. This was backed up by young adults who responded to the questionnaire. One 21 year old, who was describing why he tried to kill himself with an overdose, explained that it was because ‘I was low + depressed + staff treating me like shit on there [sic] shoe pushed me too far.’ A 20 year old from a different institution said that what would make him feel better

The importance of prisoner-staff relationships came up repeatedly throughout this Review.

20. University of Greenwich (2015). *Understanding and Addressing Self-inflicted Deaths in Prison Among 18-24 year olds: A Literature Review*. For further details see: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.

21. HM Chief Inspector of Prisons (1999). *Suicide is Everyone’s Concern*. A thematic review by HM Chief Inspector of Prisons for England and Wales, May 1999. London: HMIP. <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/suicide-is-everyones-concern-1999-rps.pdf>. Accessed 9 March 2015.

22. Bonner, R. L. (2000). Correctional Suicide Prevention in the Year 2000 and Beyond. *Suicide and Life-Threatening Behavior* 30, 370-376.

would be 'if the staff did their jobs properly and helped troubled YO's instead of talking to us like shit whenever we approach them.' A 22 year old wrote 'in this prison there are not many members of staff who care for prisoners. Incompetent [sic], dismissive and neglectful are more appropriate ways to describe staff.'²³

On the other hand, other young adults explained that when staff treated them with respect and dignity, it had a significant and positive impact on them. One 20 year old responded to the survey with 'overall I don't think the staff are bad when you get to no [sic] them but there are a few I don't like to be honest they talk to us like dirt but I haven't had that 4 a while so things are looking up' [sic]. Another 20 year old answered that staff helping when they 'speak to lonely prisoners [sic] help people who are at high risk by constantly checking that they are ok.'

The Solution for Young Adults

The Harris Review was clear in its conclusions that there is no simple and easy solution, either to reducing the number of self-inflicted deaths in custody, or to better supporting some of the most vulnerable young people in our society in their journeys through custody. However, T2A made a very poignant point in their submission to the Review that demonstrates that it is worth focusing more effort on this particular age group. They said 'with the right intervention, one that takes account of young adults' distinct needs, this is the most likely age group to desist from crime.'²⁴ Investing in this age group is likely to have an impact beyond reducing incidents of self-harm and self-inflicted death, contributing to a reduction in re-offending and an increased chance that these young people will go on to have productive lives.

As already set out, one of the key conclusions the Harris Review made is that all young adults in custody are potentially vulnerable. This vulnerability is the result of a combination of their relative lack of maturity, their life experiences and their experiences in custody, particularly around the support they receive. The Harris Review has made a number of recommendations that, if

implemented, would help deal with some of the issues set out in this paper. In summary, some of the key areas of focus were:

- Continuation of the work NOMS has started to measure the concept of 'maturity'. The Review recommended there should be legal recognition for this term and it should be considered alongside chronological age when decisions are made about young adults;

- It was felt that families are integral to supporting young adults in custody and should be used as a central component of their care where possible;

- Where family contact is not possible, a 'significant adult' should be made responsible for the young adult, to enable them to have someone to turn to when necessary. In addition, local authorities should do more to fulfil their corporate parenting role for all young adults in custody, particularly those in care.

- Each young adult in custody should be assigned to a Custody and Rehabilitation Officer (CARO) who is responsible for building a supportive relationship with them and to oversee their security and well-being.

Conclusion

This paper has touched on only a small portion of the evidence considered by the Harris Review. It was a wide-ranging investigation that considered an extensive range of views, data and case histories. It would not be possible to do justice to this in one paper. What this paper goes some way to demonstrating, however, is that young adults in custody are particularly vulnerable due to their relative youth and lack of maturity, and how these characteristics interact with the experience of being in custody. Like children who are under 18, young adults need more support and guidance than older adults. Where possible, and if facilitated, their families can still help to provide this, but staff in prisons also play a key role in enabling young adults to deal with the difficulties the prison environment. More needs to be done to ensure both that their relative lack of maturity is recognised, and that they are properly supported as they continue to develop to adulthood.

23. Harris Review (2015). Young Adult Engagement with the Harris Review. For further details see <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.

24. Submission to the Harris Review received from Transition to Adulthood Alliance on 18 July 2014. Submissions can be accessed at: <http://iapdeathsincustody.independent.gov.uk/harris-review/harris-review-research-2>.

Interview: Paul Foweather, Deputy Director of Custody for Young People

Paul Foweather was the first Deputy Director for Young People. He is interviewed by Paul Crossey, Head of Corporate Services, HMYOI Feltham.

Paul Foweather was the first Deputy Director of Custody (DDC) for Young People in the National Offender Management Service (NOMS). He has over 30 years' experience across the Criminal Justice system within the security setting ranging from low security prisons, big city local prisons, female prisons, the young people's estate, and high security. He has received recognition from the Chartered Institute of Personnel and Development (CIPD) for Change Management in 2013, personal recognition from the Chartered Management Institute (CMI), and a national accolade as winner of the Civil Service Awards Leadership Award in 2013. He was also recognised in the Queen's Honours with an OBE in 2011. In January 2016 he moved to take up post as DDC for Yorkshire and Humberside. He is interviewed by Paul Crossey, Head of Corporate Services, HMYOI Feltham.

PC: What is the Role of a DDC?

PF: I could give the easy response that it is to deliver leadership and support to the establishments; the Governors and senior management teams whilst giving assurance to Ministers, the Chief Executive Officer of NOMS and Director of Public Sector Prisons that the establishments in my responsibility are operating safely, securely and within the law whilst delivering the Service Level Agreements. However, it is much more than that, particularly in the Young People's Estate, as I believe our duty of care to those in youth custody is significantly more complicated and challenging than that within the adult estate. As such it is as much about demonstrating and applying the correct values and ethics across all aspects of the business as it is about business delivery. For me taking on the role of a DDC has been considerably different from my recent experience. The challenges as a DDC are much more political, providing corporate and strategic assurance, and running a commissioned service, delivering a high level of partnership engagement and reputational management across a wider spectrum of stakeholders. In that respect it has been a real challenge moving from being a Governor to being a DDC particularly as the Young People's Estate (YPE) is so geographically dispersed. Another aspect is being the conduit for managing the relationship between the establishments and the Public Sector Prisons directorate, which is how we are connected to the wider NOMS agency. As with any large organisation this is about converting and translating policies, process, strategy and other emergent factors into working practice across the business area whilst

also passing assurance and information upwards to hopefully inform and shape future development based on evidence.

PC: How is the young people's estate different from other regional groups of prisons?

PF: Well as I mentioned before it is geographically dispersed and it requires a more strategic approach to bring it together as a functioning collective. In fact that was one of my first main challenges when I was appointed as DDC as there was solely a headquarters group with responsibility for delivering and managing the service level agreement with the Youth Justice Board; and each establishment was managed within its geographical region. I worked hard to bring the Governors and the senior managers from the headquarters group together as a single management board who then went on to develop a new approach to joint working along with a set of values and a new vision to underpin this. Another key difference is that the YPE provides a commissioned service for a fellow public sector agency with a high level of political interest and scrutiny. There is a greater emphasis on wider stakeholder engagement and, indeed, the broader range of pressure groups. The wider NOMS agency act as a commissioner for custodial services, in contrast, much of the YPE's work is acting as a service provider, delivering custodial care on behalf of NOMS to the Youth Justice Board. This puts a much greater emphasis on developing solutions and translating operational policy rather than simply implementing change across the estate. Within this is a key consideration for creating services and policies with young people at the heart of them, which is not always the case for NOMS policies and processes. I was very fortunate to inherit a headquarters group which meant I already had an experienced and enthusiastic staff group with a broad range of skills and disciplines to help me define and determine the child-centric services which I felt were lacking.

PC: What do you believe is the purpose of imprisoning young people?

PF: At its root it is the same as imprisoning all those who offend; to keep the public safe and to satisfy the requirements of the judicial system in terms of punishment and redemption. However it is our job to do this as decently as possible and to keep them as safe as we can whilst giving them the opportunity to turn their lives around. This is becoming increasingly difficult due to the changing cohort of young people coming into custody. To put this into context, the Prison Service manages around 140 prisons and around 85,500 offenders of which only 800 are young people (those between the ages of fifteen and eighteen) and are held in

the four young people's establishments. I governed HMYOI Wetherby between 2004 and 2007 and at that time there were around 2800 young people across 11 establishments. This significant reduction in young people held in custody is obviously positive and has come about due to a number of contributory factors including changes in attitudes to sentencing and the use of community sentences, extra focus and resource into diversionary work in the community, as well as changes in police procedures and local policing strategies. The adverse effect has been that those who are sentenced to custody have committed more serious and more violent crimes. In addition the current cohort of young people have come from more entrenched offending backgrounds and with significantly more complex needs. When I was governing HMYOI Wetherby we had high numbers of car thieves, burglars, and young people with anti-social behaviour issues.

However with the above-mentioned initiatives this lower level criminality is being diverted from custody which presents the condensed YPE with new challenges. This is the situation that HMIP refer to as the 'soup thickening'. Whilst all areas of the youth secure estate, including the Secure Children's Homes and Secure Training Centres, have decreased in size in the last decade this often been driven by the reduced numbers and the need to realise savings. Savings have been returned to the Treasury and arguably not sufficiently reinvested in the remaining services. From my perspective this has meant that the focus has been on decommissioning

the estate and its services rather than reducing the size, reinvesting in the estate and re-commissioning services in line with the needs of the young people in care. I don't believe that we should be locking up young people on large accommodation units with high numbers of young people and low numbers of staff. My firm belief is that we should be replicating the success of the Keppel Unit, the 48 bed unit for young people with extremely complex needs at HMYOI Wetherby, which provides a much more holistic and self-contained level of care. That it does this within the cost envelope provided to the public sector prisons is a testament to the hard working staff who commissioned, scoped, delivered and continue to run this unit. I take a great deal of pride knowing that Keppel was originally commissioned during my time as governor. I have already met with Charlie Taylor, the Secretary of State's lead on the Youth Justice Review and discussed my views on how we can improve our services to achieve this.

PC: How has the Young Persons Estate changed since you Governed Wetherby?

... I was heartened by the staff that I met who, much like in my time, were dedicated to doing a good job and the right thing by the children in our care despite the adverse and demanding circumstances.

PF: What struck me most coming into the role was how, from an accommodation and infrastructure perspective, things didn't appear to have changed much. This was disappointing, particularly since the commission and design and build of Keppel unit had begun in my time there. As I visited the sites and met more of the staff I learnt that there had been investment across the estate but due to decommissioning many of the areas that had benefitted from this had been returned to the Prison Service and as such the improvements and the benefits had been lost for young people. Cookham Wood has seen significant investment in the last few years and has award winning accommodation and facilities, particularly the in-cell telephony and sanitation, for the young people it cares for but, as always with increased investment, it highlights the failings of other areas of the establishment and the wider

estate. Overall, though I was heartened by the staff that I met who, much like in my time, were dedicated to doing a good job and the right thing by the children in our care despite the adverse and demanding circumstances.

PC: How has the Young Persons Estate changed whilst you've been in post?

PF: Since taking up post I have worked tirelessly to improve partnership working with the Youth Justice Board and other stakeholders to highlight the good work that is ongoing as well as the improvements that could be made with increased funding and support. My team and I have brought together the YPE with a clear vision and strategy to develop a collective ownership of the work and child-centric services. I have continued to push the rollout and delivery of Working with Young People in Custody (WYPC) training and the Minimising and Managing Physical Restraint (MMPR) syllabus in order to better equip our workforce with the skills to understand, empathise, and support the young people in our care. I started the role at a time of unprecedented involvement by Ministers in the development of policies and practice and we have moved from a coalition government with a hands on Secretary of State to a single party government with a new Secretary of State who is passionate about reform and redemption. Both governments have been committed to transforming youth custody and we are still working hard to deliver some of the improvements and changes set out by Chris Grayling. This includes the increased offer of Education, up to thirty hours including physical education. This has resulted in an increase in Ministerial oversight and levels of accountability and monitoring from not only the Youth

Justice Board as commissioners but a raft of agencies and organisations including HMIP carrying out annual inspections. Similarly, the accountability around funding has increased and is much more restricted which can often, particularly in respect of strategic capital investment, result in missed opportunities.

PC: How would you describe the culture of young people in YOIs?

PF: It is very much a product of the environment as well as a reflection on society and the communities from which they come. I need hardly mention gang affiliations which not only affect a large proportion of the young people we work with but also account for a high proportion of the violence and challenge which we have to manage on a daily basis. Sadly though it isn't just gang violence as many young people come from homes where violence; domestic or societal, is commonplace and where many have previously been the victims. Whilst many young people often manifest their frustration as violence towards others there are some who turn inward and it increases their vulnerability. We have done work within the YPE to commission research and literature reviews, we've consulted with young people using third sector agencies to ensure independence, but there has been very little large scale or longitudinal research into offending behaviour or the needs of young people and that is something which I would welcome. I've already referred to how I feel that we are playing catch up in respect of influencing the commissioner of the services to meet the evolution of the population. It certainly brings into question the appropriateness of the staff ratios for which we are resourced. A typical 60 bed unit in one of our establishments would be one member of staff to twelve young people whereas the Keppel unit operates with a ratio of one member of staff to 6 young people and the outcomes speak for themselves. Furthermore Secure Training Centres operate on ratios of one to two and one to three. This is particularly galling when young people are transferred to establishments in the YPE from STCs because of poor behaviour and higher levels of risk of harm to others. Through higher staff ratios we will crucially be able to build the meaningful relationships with those in our care and that needs to be at the core of our services.

PC: How would you describe the culture of staff who work in YOIs?

PF: I know from my 30 years of service that the whole prison service has come a long way in professionalising and up-skilling staff but particularly in the YPE we have focussed on child-centric training, such as Working with Young People in Custody (WYPC), which covers in detail adolescent development and communication as well as child protection

and safeguarding practice. MMPR is the first restraint syllabus in the world to have been developed for use with young people and was approved by a panel of medical and child development experts. This training focusses on managing and understanding behaviour and complements the learning from WYPC as well as providing the safest possible physical interventions as a last resort. The monitoring and rigorous oversight of MMPR has given staff the confidence to act appropriately and in the best interests of young people in the face of whatever challenge they encounter. There is still some distance to travel, as one of the factors that is sorely lacking from our workforce is the ability to attract those from social work or youth work backgrounds and whilst we have a caring, dedicated and enthusiastic workforce they are part of a larger organisation and the YPE is often seen only through the prism of the challenges staff face and not the rewards from helping young people achieve and succeed.

PC: How are you addressing violence in custody?

PF: One of the first assessments we carried out across the YPE was the use of the Promoting Risk Intervention by Situational Management (PRISM) methodology. What appealed to me about PRISM was its focus on the functioning and environmental risks of the establishment rather than the individual risk factors such as personality, substance misuse, impulsivity, etc. Each establishment assessment provided me with a good understanding of the factors

which were contributing to the rising levels of violence. Establishments set about developing action plans to meet the specific needs, many of which were rooted in the culture and relationships. Alongside this I commissioned a third sector organisation to consult with young people and produce a report setting out the challenges from their perspective. This was to ensure that I had a balanced view of the issues across the estate. One of my key achievements has been to secure increased funding for Psychological Services in each establishment and the headquarters team, as I was stunned to see the paucity of this provision when I first took up role. I know from the adult estate the considerable impact interventions and offending behaviour programmes can have on those who offend. These teams carried out the PRISM assessments and have already begun to develop multiple evidence-based accredited interventions specifically for young people. They are instrumental in progressing the Restorative Justice model that we are currently rolling out for the YPE which is crucial when you consider that in excess of 60 — 70 per cent of the assaults we are experiencing are attributed to retribution.

PC: As the young people population shrinks, how can you address the complex needs of those that remain?

It certainly brings into question the appropriateness of the staff ratios for which we are resourced.

PF: We can only deliver what we are commissioned and resourced to deliver. The outcome of the Youth Justice Review will no doubt propose fundamental changes to the current provision across the sector from the composition of the Youth Offending Services, the variety of provision of custodial places, the interventions and reducing reoffending work, the education and vocational delivery, all the way back through to resettlement in the community. As with all important reviews we will be in the hands of the government response and the political drive and desire at the time of publication. There is always going to be a cohort of young people who transition through to the young adult estate and there is more we should be doing in this area. We still have information systems that don't communicate with each other effectively. As such we rely on the traditional methods of information sharing which rely on individuals who are already working hard to deliver their responsibilities. Many of the areas in which our delivery is criticised are areas where resource is under consideration. As efficiencies have been driven forward we have always had to consider the fundamentals of a service rather than the 'nice to have'. Whilst I recognise that young people have always, rightly, attracted a higher level of funding, we have always had to deliver value for money. However, if we are to meaningfully engage and meet the needs of young people I don't think that it can be done with cost-saving at the forefront. Economies of scale can deliver significant benefits such as the reduced overheads of running a unit like Keppel. However, in the main they move providers toward processes and procedures which ultimately result in a less individualised service for young people.

PC: What are the key challenges for the young people estate in the future?

PF: For me there are four major challenges for the YPE to consider: First; meeting the needs of the cohort of young people in our care and the management of behaviour giving particular consideration to the serious violence, levels of education and rising mental health issues. Second; the continued challenge of recruiting suitable and appropriate staff, retention of staff, and continuous professional development to allow them to effectively meet the needs of young people. Third; managing the ongoing transformational agenda for education and other Ministerial priorities including the outcomes of the Youth Justice Review. Fourth, and most likely an outcome from the Youth Justice Review; utilising and influencing the commissioned accommodation both in size and location as well as the resources provided to support it.

PC: Michael Gove is considering potentially 'radical reforms' to the role of the Governor and has commissioned a review of youth justice. What potential opportunities could this offer to the young people's estate?

PF: I welcome the opportunities that this can offer. Currently, the YPE is not included in this reform programme

in part due to the commissioning by the Youth Justice Board but also because of the Youth Justice Review to which you alluded. Autonomy and flexibility have always been really important to me. How we can improve and achieve this in a pragmatic manner that not only safeguards and maintains delivery within existing resources but also gives freedom and accountability to the person making the decisions is important. I am really pleased to see that NOMS is moving forward with the development of further autonomy. Alongside this the government are committed to local devolution and I think that will have lasting impact on the way that we work in modern government. The Youth Justice Review is similarly a fantastic opportunity to radically change how we care for and meet the needs of young people who have offended.

PC: Are there benefits to managing Young Adults in the same way as Young People?

PF: I feel that too much emphasis is placed on age boundaries in custodial environments and whilst I recognise that it is external factors that often impact upon this, Young Adults have very similar issues to young people and particularly in respect of maturity. There is significantly more research into maturity than when I first became a governor and it is to this that the policy makers should be referring as it highlights what many of us have known anecdotally; that age is simply a factor but not a clear indicator of someone's capacity to change. I think that some of the most recent commissioning work undertaken for managing young adults is really good and could be emulated by the YPE. Whilst age remains an arbitrary boundary, however, there is much more work we could be doing to manage the transition for young people when they transfer out of the youth justice system. The Harris Review made wide-ranging and significant recommendations about the management of the young adult population and whilst we are awaiting the government response to this important review, we remain in a period of austerity and as with any sea-change in policy or practice it will require not just the appetite for change but also the funding.

PC: What are you most proud of and what do you hope will be your legacy?

PF: There are a number of achievements and successes which have occurred in recent years including completing thirty years' service within NOMS; taking my Mum and wife to Buckingham Palace to collect my OBE in recognition of my achievements while I was the Governor of HMP Hull; completing an MBA and receiving the accolade of Student of the Year; winning the Civil Servant Leadership Award in 2013; improving three very different prisons to become high performing Level 4 prisons and; being given the challenging role of becoming a Deputy Director of Custody. You need to challenge the status quo and develop your team, take your staff with you on the journey and ultimately be remembered for giving hope and making a difference to people's lives.

Interview: Kate Morris, Director of Operations at the Youth Justice Board

Kate Morris is Director of Operations at the Youth Justice Board. She is interviewed by Paul Crossey, Head of Corporate Services, HMYOI Feltham.

Kate Morris is Director of Operations at the Youth Justice Board. She joined the YJB in 2006, and over this period has held strategic leadership positions across all Directorates. Prior to joining the YJB, Kate was the Head of Safeguarding at HMYOI Feltham, where she worked for 5 years. She is interviewed by Paul Crossey, Head of Corporate Services, HMYOI Feltham.

PC: Can you describe your background before you took up your current role?

KM: I have worked in the youth justice system for the last 15 years. I started my career in the prison service, working with young people at HMYOI Feltham. I joined as a Prison Officer working on the residential units, and subsequently held a series of other roles across casework, child protection and safeguarding teams. My final role at the prison was Head of Safeguarding. The role had just been introduced across all under 18 YOIs and involved designing, establishing and embedding a new safeguarding function across the establishment. My time at Feltham, and particularly working as a Prison Officer, has been invaluable experience which I have drawn from on an almost daily basis as I have moved through my subsequent career.

I then moved to the YJB where initially I took on a monitoring role, working across Youth Offending Teams and one secure children's home in London. I then worked for many years in the Secure Estate Directorate managing the relationship between the YJB and NOMS for the provision of secure estate and escort services. I worked in one or two other positions before I took on the role of Director of Effective Practice and then moved to my current role, Director of Operations on my return from maternity leave last July. So the relationship between the YJB and NOMS has been a key feature of my career throughout the last 15 years.

PC: What is the role of the YJB in relation to those young people in custody?

KM: We have been the commissioner of secure accommodation for ten to 17 year olds since 2000. That meant that we set specifications for services within all three sectors of the secure estate (under 18 YOIs, secure training centres and secure children's homes) and were responsible for ensuring those standards are met. However, a changing relationship with the Ministry of Justice means that those responsibilities have become less clear over recent years. It is, however, still our responsibility to ensure that young people remanded or sentenced to custody are appropriately placed.

We are currently in the process of re-setting our relationship with NOMS, in order to be more explicit about

the true nature of our respective accountabilities. We are both part of the Ministry of Justice family, and as such, the commissioner-provider relationship is a bit of a falsehood — the YJB levers for change are limited and very different to those which are available to us with other service providers across the secure estate. Both the YJB and NOMS are keen for NOMS to take more direct accountability for delivery of services across its young people's secure estate. This would mean the YJB prioritising monitoring in order to support our placements responsibilities, as well as identification of effective practice and risk.

PC: What are the key elements of the role of Director of Operations at the YJB?

KM: I am tasked with ensuring we are receiving the standard of service we expect across the secure estate and supporting services (i.e. escorts, advocacy etc), through our monitoring and managing of contracts and service level agreements. I ensure the safe and appropriate placement of young people in to custody. I have oversight of the performance of services provided by Youth Offending Teams in the community and the YJB's strategic relationship with delivery partners to youth justice, such as local authorities, probation services (National Probation Service and Community Rehabilitation Companies (CRCs)), and health.

We also have a safeguarding team within the directorate, which focuses on ensuring the best safeguarding practice across the youth justice system and managing the YJB's response to, and dissemination of, learning from serious incidents and deaths in custody. And finally, we also have a senior police officer seconded to the directorate who manages the relationship we have with the police across local areas and at a national level.

PC: What do you believe is the purpose of imprisoning young people?

KM: Custody should address young people's needs in order for them to reintegrate into communities in a positive way. There is obviously a punishment element in terms of their deprivation of liberty, but the public is best protected by ensuring effective rehabilitation — and this is therefore the purpose of custody. The secure estate needs to integrate with the wider youth justice system, so custody and community practitioners are working together to deliver a seamless service and to meet the distinct needs of each child.

PC: How has the young people's custodial estate changed since you began working in this area?

KM: When I think back to what it was like when I started at Feltham, things have changed such a lot — the youth secure estate has gone through almost constant

change and continues to do so. I joined at about the time the YJB was being established and there was a huge amount of change within the estate. There was a lot of investment being made, including investment in additional staff, enhanced services within establishments, capital development, and at Feltham in particular, there was a big focus on bringing in voluntary and community groups to support delivery. There has also been ongoing investment to improve safeguarding and the physical environment, and to enhance workforce development opportunities for staff working with children and young people in YOIs.

Over the 5 years I was at Feltham, the site changed unrecognisably — this was supported through inspection reports over that period. I experienced first-hand some of the barriers and challenges to change in a YOI setting, but change was driven through and huge strides have been made moving forward.

The challenges in delivering an effective secure estate for children and young people do not remain static, and events over the past six months have uncovered a whole range of considerations which have dominated our work in light of the Medway STC allegations. The secure estate faces some new and significant challenges now. The reduction in the numbers of young people in custody, whilst being a major success for the youth justice system as a whole, brings with it a different set of issues. This includes the need to manage a much more complex group of young people, within a significantly smaller and geographically dispersed secure estate, and without the level or rate of investment seen when I first joined Feltham.

PC: How would you describe the culture of young people in YOIs?

KM: We have far fewer young people in custody now than ever before and that means that the ones who remain in custody are often a much more complex cohort in terms of their needs. We see a high prevalence of violence which often stems from the complexity of the issues these young people are facing. Many of them have mental health issues and we have a huge over-representation of looked after children in the system — all of which is evidence of the complexity and vulnerability of the young people we are working with. When I worked in the safeguarding team at Feltham we saw children with incredibly sad and abusive childhoods. It's not an excuse for their offending behaviour, but it does help us understand why they behave in the way they do and demonstrates the challenge faced in turning that behaviour around.

PC: How would you describe the culture of prison officers in YOIs?

KM: Prison officers in YOIs hold one of the most challenging jobs working with children anywhere across the public sector. This is coupled with the fact that many may not necessarily have made a conscious decision to work with children. Whilst the training and preparation on offer is much better now than it has been previously, I know it remains an incredibly difficult role. I have huge respect for

those who are committed to the role and do not underestimate the challenge they face in helping these, often violent, challenging children to turn their lives around.

PC: What are the biggest successes of the YJB in relation to those in custody?

KM: Driving the reduction in numbers of those in custody is undoubtedly the biggest success — the figures here speak for themselves. The number of young people in custody has fallen by 72 per cent compared to its peak in 2002. This has been a strong focus for the YJB, and the reduction we have seen is a credit to the wider youth justice system which has been able to appropriately divert young people away from custody.

Another key success (if you will allow me to have two) is the investment in safeguarding and the safety of those in custody. This is an area which is close my heart as I have been very directly involved in this improvement work throughout my career, and significant investment has been made to change the physical environment, policies and procedures and general culture across the secure estate. Despite this, events unfolding at Medway STC over the past six months have clearly shown us that ensuring safety of young people in custody must remain of paramount importance and be the priority for commissioners and providers. We must retain the strongest focus on safeguarding at all times, and as such we are developing our approach to monitoring and oversight of custodial services to ensure a renewed emphasis on this. Whilst the relationship between NOMS and the YJB may look different in the future, the developments in this space will equally apply to YOIs, as we will always want to have equal assurances about the safety and wellbeing of children in this environment.

PC: How has safeguarding and child protection of those in custody changed in your time?

KM: When I first joined Feltham, people didn't know what child protection meant in a prison context. I held the first child protection role and the first Head of Safeguarding role there, and at that time safeguarding and child protection felt like a concept that sat very awkwardly among other adult-based policies and procedures. Since then there have been massive changes, and now there are many different things in place which demonstrate that safeguarding and child protection arrangements have become a clear priority in YOIs. The connection with Local Safeguarding Children's Boards has helped YOIs to build expertise and demonstrate accountability in managing safeguarding issues. There will always be more to do, and the YJB remains committed to working with NOMS to ensure continuous improvement in this area.

PC: Why do you believe the custodial population of young people has decreased?

KM: I believe there are two key drivers for this. The first is connected to the reduction in numbers of young people across the system overall. As large numbers of young people have been diverted away from the youth justice system into appropriate alternative services and interventions, the

threshold for custody has risen. This means we can now be much more confident that custody is used for those young people who have shown serious offending behaviour and are a risk to others.

Secondly, the YJB has for many years prioritised an agenda around ensuring local authorities understand and are aware of their custody population. I believe this awareness alone has strengthened the focus of many local authorities on how and when they make recommendations around custody to the court and what viable alternatives they can put in place for young people at risk of custody. This has been reinforced by the devolving of remand budgets, which means that local authorities will experience the significant financial burden of young people placed into custody on remand.

The combined impact of these two factors has, I believe, been significant. It is not to say, however, that there will not always be more which can be done in ensuring custody is not used unnecessarily.

PC: Michael Gove is considering potentially 'radical reforms' to the role of the Governor and has commissioned a review of youth justice. What potential opportunities could this offer to the young people's estate?

KM: The YJB believes the review of youth justice offers an enormous opportunity for the future of the system. We have been clear that reform is essential, and that the current framework for delivery is not sustainable given the scale and demand within the system, and current financial pressures. The key will be to ensure that we don't 'throw the baby out with the bathwater.' We are not supporting reform on the basis of a failed system which requires change. Over the last 15 years the system has been incredibly successful, and it is critical we can identify the elements of the current delivery framework that we would want to protect. There is a need to ensure that specialism and expertise in youth justice is protected and remains identifiable, within a system which structurally may take a variety of different forms. The greatest risk would be regressing to pre-1998 days where there was no distinct youth justice system at all.

Nowhere in the system is reform more needed than in the secure estate. The current custodial estate has numerous challenges and barriers to effective delivery. This is particularly true within the NOMS YOI estate. This is in no way a criticism of the committed and talented individuals working in that environment, but a consequence of the fact this is a model of service primarily designed for adults. This is a key opportunity I would see presented by the reforms: development of an integrated local approach to youth justice which includes secure provision for children which is specifically designed and configured to deal with the complex needs they present.

Events uncovered by the BBC at Medway STC in December 2015 have dominated our thoughts and activity over the past six months. NOMS takes over the operation of

Medway in July 2016, and I hope this will present an opportunity for NOMS to explore new ways of working with young people in a different custodial environment, which could have benefits for their YOI estate. While I would expect the Taylor Review to remove the requirement for the NOMS young people's estate eventually, this will not be the case for a number of years yet. The YJB's experience of commissioning custodial services from NOMS has taught us a lot over the last 15 years, and whilst our relationship will change, it is essential that the YJB and NOMS continue to work together to make improvements over the coming period.

PC: Do you think that there are benefits to managing young adults in the same way as young people in custody?

KM: This is a high profile issue at the moment and does generate a number of concerns that need to be addressed. A series of relevant inquests, and of course the recently published Harris Review, have provided us with greater understanding of these issues. Those who might have heard Joyce Moseley from the T2A Alliance speaking at the youth justice convention last November will have heard her talk about transition at 18 being really quite arbitrary. This approach based on chronological age doesn't consider the needs of the individuals and the fact that all children reach maturity at a different stage.

Transition from the youth to adult justice system has been a high priority issue for the YJB for a number of years, and we led the introduction of the Transitions Framework in 2012. This set out guidance on good practice for youth and adult justice practitioners in how to work with young people who were going to make that transition to the adult system. This has recently been relaunched, to reflect the changes brought about by Transforming Rehabilitation — <https://www.gov.uk/government/publications/joint-national-protocol-for-transitions-in-england>

In conclusion, whether it is a model which mirrors the youth justice system, or something different and unique to this group, it is an area which needs further consideration.

PC: What do you view as the key challenges for the young people's custodial estate in the future?

KM: At an operational level the secure estate for young people faces a combination of interrelated challenges, many of which I have already touched on here. The key challenge is how to adapt services to effectively meet the needs of an increasingly complex group of young people. Added to this is how to do that when faced with increasing financial pressures. And finally the shrinking size of the secure estate presents challenges of its own around geography and closeness to home to aid resettlement.

These are all issues which form key areas for consideration as part of Charlie Taylor's review of youth justice.

Interview: Pete Gormley, Governor of HM YOI Werrington

Pete Gormley is Governor of HM YOI Werrington. He is interviewed by Dr Kate Gooch, Lecturer in Law at the University of Birmingham.

Pete Gormley is the Governing Governor of HM YOI Werrington, a young offender institution (YOI) accommodating boys aged 15-18 years old. Pete became the Governor in February 2015, having previously been the Deputy Governor at HM YOI Werrington and a number of other functional head posts including the Head of Young People at HMYOI Brinsford.

KG: How is governing a YOI for young people different to governing in other types of establishments?

PG: The main difference is that you hold children in your care and the law is different. It's about their maturity, generally speaking they respond differently to adults so it's understanding firstly the child's specific environment, what the laws are governing children and understanding their maturity and how they are likely to respond.

KG: Have you noticed differences in how children respond compared with young adults or adult prisoners to the same or similar situations?

PG: With children their consequential thinking isn't quite as developed as well as adults, therefore, they tend to react to things a bit more erratically. This could be a behavioural, learning or mental health issue, it could be that they are still immature in terms of their development. I think it is important that staff dealing with children understand that and understand that they are likely to get a different response to what they would do or would expect from a reasonable sort of interaction with an adult. A lot of what we do is understanding the child and understanding the child's mentality, and that's partly why staff working in the young person's environment receive additional training.

KG: How has the role of Governing Governor been different to other roles you have held?

PG: This is my first Governing Governor job so I can't comment on what it is like to be a Governing Governor in other establishment but it's great if I'm honest. It's leading an organisation and being able to — I say set the direction but the direction is very often set for us, so, it's doing as much as I can within that set direction in terms of setting out your own stall and leading how you want with your own personal values, which for me is really enjoyable. I think I understand the business, I think I understand what's best for young people, I think I understand the best way to get the best out of a staff

group and if I can lead my SMT like that, it's fantastic opportunity and a very rewarding experience.

KG: It sounds like it's quite rewarding even with all the challenges associated with the role...

PG: It is probably more challenging than I was expecting but I'm still very new and learning my trade so that's fine but equally as rewarding as well. If you can engage an SMT and a staff group to work to set a culture and a work ethic within an establishment that is then really positive and looks after children in an appropriate way giving them an opportunity to turn their lives around, then I think you have the opportunity to really achieving something in this complex environment. Because of the complex needs and sometimes unpredictable nature of the children we look after, it's an environment where stability is frequently under review, and ever changing.

KG: So you've noticed changes with the population itself in the time you've been working with young people?

PG: Yes, I have been working with young people at Werrington now for just short of two years and there's certainly been some changes that I've noticed in that time. Previously, about 2007, I was Head of Young People at another establishment and there's also been some considerable changes since then. It's well-known that there was close to 3,000 under-eighteens in the system and now there's less than a thousand. There's been some really good work around diverting young people away from custody so I guess the ones that are now sent to us are the ones who really need to be in custody. I have heard the term 'thickening of the soup' to describe the population we are now dealing with and that seems an appropriate analogy to me. I guess the difference is that we are seeing more complex children coming into custody with a lot more needs, a lot more vulnerabilities and therefore, need a lot more intervention.

KG: What do you notice has changed around the needs and vulnerabilities of the children in the estate?

PG: It certainly feels that the percentage of children that have complex needs is much higher. I think it's fair to say that most of the children in custody have some form of complex needs and some have got very high levels. Previously, they seemed the minority so they were much easier to manage and deal with because, in terms of

interventions the majority of boys in custody with their vulnerabilities and threats of violence didn't pose too much of a concern and weren't as resource intensive. This certainly feels different now.

KG: What are the main needs when they are coming in now?

PG: Whatever their needs are we try to address and stabilise them, with our priority being to safeguard them. We risk assess the young people to explore their needs and ideally we would like to sequence their interventions. We have implemented 'Transforming Youth Custody' which enables 30 hours of education which is absolutely fantastic for some children and could be the best thing that happened to them because they have a wonderful opportunity to learn, however for others they are not ready or capable of sitting in a classroom. They have far greater needs in terms of anger management issues, withdrawal from substance misuse, maybe vulnerabilities we need to address first before they can survive in a classroom for a longer period. So we need to be really careful about how we assess and sequence what the requirements are of each child. For some children who are so angry, vulnerable, poorly from withdrawal, or have such need for mental health intervention education isn't their priority initially, so the sequencing and the flexibility of resources available is important.

KG: You have to get young people to a place where they are ready to engage with education?

PG: Yes, Transforming Youth Custody certainly isn't one size fits all. What I need as a Governor is a range of interventions and the flexibility of an individual learning profile or interventions profile for every child that comes through the gate. We never know what we are going to get but the assumption is that we are getting more children with a range of complex needs so what I need is a range of interventions to be able to address these in the right sequence. That shouldn't be about being judged on can I get boys to thirty hours of education a week because that sometimes isn't going to happen and it can take months to get a boy in a position where they are capable of that. What we are suffering from at the moment is putting boys in activities, in education, in vocational courses who aren't quite ready for it, they are becoming disruptive because they are not having their needs addressed.

I believe we are very good at stabilising young people at Werrington, however, this is not enough, just to get them to behave whilst in custody, that's only a very small part of what we are trying to do.

Whatever their
needs are we try to
address and stabilise
them, with our
priority being to
safeguard them.

What we also want is rehabilitation and if all I achieve is keeping someone occupied whilst in custody, then when I release them into the community, I feel like I have failed.

I think our aim should be to make young people in custody better citizens, so in trying to rehabilitate them they have a real opportunity here at Werrington to go through a process of intervention and education, addressing their behaviour, better themselves and maybe gaining qualifications, some job prospects, which may need to carry on through the gate into the community so they can avoid further offending.

KG: What would you say that the purpose of imprisoning young people is?

PG: Well I guess from a court point of view, it's public protection. They have committed a crime at a level where a court has deemed it necessary to put them in a custodial environment. But of course once they are in prison, it's absolutely our responsibility to give them the best opportunity to turn their lives around and whatever it takes to do that, whether it's just having a relationship with a member of staff who they see as a role model or whether it's through heavy intervention that addresses their criminal behaviour, their mental health or their substances misuse.

KG: How easy is it to reconcile a security function with a rehabilitative function when dealing with children?

PG: It does create challenges. An example of which would be unauthorised articles that come into an establishment, such as illegal substances. These are difficult to control because if you don't get the balance of dealing with children and decency right it leaves you vulnerable to security breaches.

There are lots examples of where we balance decency in dealing with children against the needs of security but we will be very much intelligence focused on how we respond, and when stricter security measures are required we wouldn't want them to become the norm. In dealing with children, you have to make that judgement call and about what's appropriate and if it's dealing with risk, then you judge that risk appropriately, and make a defensible decision.

KG: How do young people tend to present in custody?

PG: Generally speaking they are fine, they will talk and engage with you. There is this perception that some children have to act like prisoners, which we try to break. I'm really keen on role-modelling for my staff and challenging low level anti-social

behaviour and I'm constantly having discussions with children and with staff about what's right, what's wrong.

I encourage pro-social modelling and role model behavioural because if we don't do that in custody and we allow boys to use offensive language and to be rude and disrespectful, then they are just going to do that when they go back into the community. We are trying to demonstrate a decent way to behave. But generally speaking they are okay, they become disruptive when they want to become disruptive, or feel they have no choice, maybe because of their lack of consequential thinking, there are often conflicts which start in the community which continue in custody and some boys feel they can't back down because they are going to lose face, and we have to break down those barriers. We have to do conflict resolution with those boys and we try to demonstrate to them that there are other ways to deal with issues.

KG: Has the nature of the offences young people have committed changed?

PG: It certainly feels like it. Anecdotally, it feels like there are more violent crimes and longer sentences being given out, and it feels like there are more sexually orientated crimes at this age group. That's going back to my point about the need for a range of interventions and the flexibility, but an ideal model that I would like would prove to be quite resource intensive because I would want a range of intervention that might only be used on occasions by a specialist, but of course that isn't an efficient way of operating.

KG: I've noticed that you refer to them as 'children' rather than 'young people'...

PG: The correct title is 'Young People' but they are under eighteen and in the eyes of the law, they are children. Now there are some quite big, scary children if I'm honest but they are children. When does a child become an adult? In my opinion and in the eyes of the law, it's eighteen but that's not always when a child is capable of being an adult. Some children are adults long before their eighteenth birthday physically without a doubt, mentally maybe not so. I think there's some real work that we need to explore through transitioning back into the community or transitioning into young adults because there are some very vulnerable eighteen year olds who are immature in terms of physical and mental development and we are putting them into adult establishments. We are commissioned by the YJB for children, we are the privileged few and compared to the rest of NOMS, we are well resourced compared.

Perhaps that's right to invest that resource with children because children are the future and we want to prevent them from continuing a life in criminality.

This does lead to problems, if we don't get transition right and this person isn't mature enough and we put them straight into an adult or young adult prison which have a lot less resource and support than they have been used to, it's a stark difference, and can add to any vulnerability.

KG: Should we retain the use of YOIs for children and young adults?

PG: Personally I'm a big advocate on retaining them. I think Werrington is a good example, as are the other YPE establishments. They can be very vulnerable and volatile community but because we have the backing of NOMS we get it right. There are lots of things we can do to improve which comes with additional commissioning, additional funding, I think we have the ability to become more flexible and improve what we do in terms of how we configure the estate.

I believe Werrington could develop into a more bespoke, specialist unit where boys' needs are addressed with a range of sequenced interventions but with the realisation that some boys have highly complex needs that will take specialist input.

We need the ability to quickly assess if this young person coming into custody is in such desperate

need for interventions, or is going to be sent to a mental health hospital, or that we need an enhanced, specialist unit that's resource intensive, with an integration plan where we can progress them into a normal — if there is such thing as normal — prison setting.

I can probably name ten boys here who fit that criteria and we are currently trying to work with them in a bespoke way, to benefit them and the rest of the establishment because clearly if the people with highly complex needs are just on normal location, and are just going to normal activities then the additional resources and attention that they REQUIRE means that we are paying a lot of attention on the few and that prevents other boys learning in classes, having decent association or interaction in youth clubs.

KG: What do you think the key opportunities and challenges are for the young people's estate?

PG: Certainly the finances. Austerity has been around for a long time now. There's got to be savings at a time when I'm asking for more resources to deal with young people in custody appropriately. So balancing the requirements of the individual and establishment against the budget is absolutely huge and I'm in charge of spending a large proportion of public money wisely so that's the biggest challenge.

... children are the future and we want to prevent them from continuing a life in criminality.

And then of course dealing with the children we are getting in and their complex needs and making sure that we do the best job that we can. Reform is coming, we don't know what shape that reform will take. We need to work smarter and more efficiently but at the same time realising that the boys we are dealing with are really complex. I hope that we still lead the way on delivering youth custody but we don't know what that's going to look like and we will adapt accordingly, of course we will.

Not only do I think we can get it right but we can do it cost effectively. Obviously there are the discussions around governor autonomy and devolution, I see these as opportunities but also big challenges. It's a little bit scary too but it sounds great. If I can have more autonomy to make decisions at a local level with the in-depth local knowledge within a framework to make things efficient and better for Werrington and the boys we look after, and the staff that work here — absolutely fantastic.

KG: Running alongside the Michael Gove reforms or potential reforms, you also have the Taylor review — what do you see the opportunities and challenges are with the Taylor review?

PG: I suppose what we need to do is to see what comes out of it first but for me, I'm hoping that it's going to be a real understanding that perhaps compared with when the YJB came into formation, what we are dealing with now is a very different clientele and we need to move and change, we need to commission it in a different way.

Can we do things better and smarter? Of course we can and there's always an opportunity to do that. So I'm hoping that the opportunities that come out of those reviews is an understanding that what we are dealing with in terms of children in custody is very different and we need to move with the times. Should we be moving to what is normalising youth custody? Not mirroring society of course but something close to it so when they go back out, it's not such a stark change. So I'm hoping that that review will bring all those opportunities in a format that we can manage.

KG: What would you say you are most proud of in the last twelve months?

PG: I'm proud of the way my senior team and staffing group have responded to my direction because in turn what that means is that they have presented real opportunities to boys to turn their lives around if they want to. There have been a number of examples in a complex environment where boys have done really well for themselves and they have gone out as success stories.

When I'm signing early release and HDCs [Home detention curfews] and you read from the starting point of their criminal career to what they've done, they've turned their lives around. Of course, I'm going to claim that Werrington has been a part of that and even if it's just the catalyst that has made them realise that there is a different way, you can't get anything more satisfying than that. It doesn't work all the time of course and for every success story, there are a number of stories where we need to work harder. I walk around and I'm very proud of the staff when I listen to the way that they talk to and deal with boys — and some very difficult boys as well and they have to put up with a lot of flack and some quite violent situations — their resolve and resilience constantly amazes me.

KG: As an endnote, is there a particular success story that has stuck in your mind that you wanted to end on?

PG: I suppose it would have to involve a child who came to us, who was well known to us, had been in a number of times, and he was a prolific self-harmer. He came back to us probably in the worst state that most of us had seen him for a long time. He was almost unrecognisable. The self-harm was really bad. He was out on escorts to hospital having self-harmed so severely, I think one day he went three times to AandE. Clinical staff in AandE were saying that he needs constant supervision with no privacy because he was so dangerous to himself and of course we were not geared up to look after that so we put him on what we call a constant watch and we tried to move him to a more suitable environment where he had 24 hour healthcare. I guess because of commissioning, we couldn't move him and he stayed with us for a number of weeks until eventually he was assessed for mental health and he was moved to a secure mental hospital. But in that time, from memory it was about six weeks, the staff did an absolutely wonderful job in some really distressing circumstances. To see a child do that to himself, for staff, it was not nice, but they got him off the constant watch, helped him stop self-harming, they reintegrated him back into normal location for a period of time. Yes he bounced back into his ways for a while and thankfully he was assessed and taken into secure accommodation which is where he should be but for that period of time, a number of staff at Werrington did an absolutely wonderful job of looking after that child because he was a real danger to himself and if he wasn't in the custody at that point, I would be really fearful for his life.

Having to (re)settle for second best?

The gap between theory and practice in the resettlement of children¹

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A small problem or a big one?

There is a stark contrast between, on the one hand, the relatively small numbers of children currently detained in custody and the enormity of the challenge to improve outcomes on return to the community for this particular group. To take the first half of that dichotomy, after years of rising youth imprisonment, the number of incarcerated children has fallen dramatically more recently. The average population of the secure estate in 2007/08 was 2,932 but by 2015/16 (up to September 2015) had fallen to 981, a decline of more than two thirds.² As a recent report by the Children's Commissioner for England notes, this figure is equivalent in size to an average secondary school.³ While females have always been underrepresented in the custodial population, the reduction in girls' incarceration has been even more striking. By September 2015, just 32 girls — a typical school class — were detained in the children's secure estate.⁴

There is a sense in which delivering effective resettlement services to such a small cohort should be straightforward: the implications for the public purse of resourcing high quality provision are modest, and the potential for tailoring services to meet individual need is considerable. At first sight then the issue of children's resettlement appears relatively unproblematic. One might accordingly anticipate that a youth justice system focused on the prevention of offending and reoffending of children, as the Crime and Disorder Act 1998 requires, ought to deliver favourable resettlement outcomes.⁵

Viewed through a different lens, however, youth resettlement takes on a rather less encouraging aspect. On a variety of different indicators, outcomes for children returning from the secure estate to the community appear poor. The government's preferred measure is reoffending within 12 months of release from custody and, despite some recent improvement, rates of recidivism following imprisonment remain stubbornly high. More than two thirds (66.5 per cent) of children released from custody in 2013 were reconvicted within a year of release, significantly above the equivalent rate for adults (45.8 per cent) and higher than that for any other disposal.⁶ No doubt, the latter difference is explained in part by the fact that children incarcerated for their offending are likely to have a more entrenched history of criminality, but analysis conducted by Ministry of Justice confirms that, controlling for other relevant factors, children who receive custodial sentences of between six and twelve months are significantly more likely to be convicted than a comparison group sentenced to a high level community penalty.⁷

Admittedly, post-custody reoffending has fallen since 2007, prior to which date recidivism rates were routinely above 74 per cent. It is tempting to see this advance as indicative of an improved focus on the resettlement of children and this is one possibility. Complacency would however be unwise as there are other potential explanations. The overall level of detected youth crime has fallen dramatically since the latter half of the last decade and levels of reoffending might accordingly simply have fallen in line with that broader trend. Moreover, the decline in the custodial population has had a significant impact on the age

1. Much of the material on which this article is based derives from the work of Beyond Youth Custody, a partnership funded under the Big Lottery's Youth in Focus programme that aims to improve youth resettlement policy and practice. For further information, see <http://www.beyondyouthcustody.net/>
2. Bateman, T (2015) *The state of youth justice – 2015: an overview of trends and developments*. London: National Association for Youth Justice.
3. Children's Commissioner for England (2015) *Unlocking potential: a study of the isolation of children in custody in England*. London: Children's Commissioner for England.
4. Ministry of Justice (2015) *Monthly youth custody report – September 2015*. London: Ministry of Justice.
5. Section 37 of the Crime and Disorder Act 1998 provides that the principal aim of the youth justice system is to prevent offending by children and young persons and requires that all agencies working within the system have regard to that aim.
6. Ministry of Justice (2015) *Proven reoffending statistics quarterly bulletin: January to December 2013*. London: Ministry of Justice.
7. Ministry of Justice (2012) *2012 compendium of reoffending statistics and analysis*. London: Ministry of Justice.

distribution of child prisoners, removing most of those below the age of 15 years. There has consequently been a considerable rise in the average age at which children are released from detention with the result that many of them will be approaching the stage of maturity at which they begin to 'grow out of crime'⁸ and the natural process of desistance kicks in.⁹ A binary reoffending rate is thus a relatively blunt measure of resettlement performance. Whatever the reasons for recent improvements, it is clear that the 'revolving door', whereby the large majority of children released from custody re-enter the criminal justice system within a short period, demonstrates that children's youth resettlement is, as yet, a long way from being able to claim success in terms of the system's statutory aim.

In any event, concluding that resettlement is a bigger problem than might be implied by the small numbers of children in the secure estate does not depend solely on high rates of recidivism. Other evidence that effective resettlement represents a difficulty disproportionate to the numerical size of the child custodial population is readily available.

Challenges and opportunities

Perhaps the greatest challenge for providers of resettlement services is the extent of vulnerability within the cohort of children deprived of their liberty, who have typically experienced 'trauma, victimisation, abuse and social injustice'.¹⁰ Extensive, research conducted in 2008, provided a troubling picture of disadvantage among the child custodial population. Educational engagement was poor: 48 per cent had been excluded from school. The majority lived in a deprived household and/or unsuitable accommodation. More than a quarter had previously been in care and 39 per cent had been on the child protection register. Three quarters children had absent fathers and 12 per cent had

experienced the death of a close family member, three times the rate for the general population. Eleven percent had previously attempted suicide. The negative impact of these individual factors was exacerbated by the cumulative effect: 80 per cent of children were characterised by five or more 'disadvantage factors'.¹¹ Accordingly, as Hazel and colleagues succinctly put it, these were 'not just bad kids, but complex individuals with multiple difficulties'.¹² Such difficulties are, moreover, compounded by the custodial experience which represents an interruption to the important developmental processes associated with adolescence that naturally foster desistance,¹³ undermines (already frequently inadequate) familial support, disrupts education and reduces future career prospects, and increases susceptibility to mental ill-health and substance misuse.

Given the scale of the changes in the interim, however, these findings — disturbing though they are — must be considered outdated. As the population of secure estate has contracted, children whose offending is less entrenched and whose difficulties are accordingly less pronounced have tended to be diverted to community disposals. By contrast, those who continue to attract spells of incarceration have the highest levels of complex needs.¹⁴

Between 2008 and 2013/14, the proportion of children in custody with previous experience of local authority care rose from around one in four to more than one in three; while fewer than half of children had previously been excluded from school in 2008, by the 2013/14, 88 per cent had. Moreover, it is apparent that this process of increasing concentration of vulnerability is ongoing: in 2013/14, 23 per cent of 15 to 17-year-old boys in young offender institutions (YOIs) reported having emotional problems or mental ill-health, a four percentage point increase over the previous year.¹⁵

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8. Rutherford, A (2002) *Growing out of crime: the new era*. Basingstoke: Waterside press.

9. Bateman, T (2015) *op cit*.

10. Beyond Youth Custody (2015) *Effective resettlement of young people: lessons from Beyond Youth Custody*. London: Beyond Youth Custody.

11. Jacobson, J, Bhardwa, B, Gyateng, T, Hunter, T and Hough, M (2010) *Punishing disadvantage: a profile of children in custody*. London: Prison Reform Trust.

12. Hazel, N, Liddle, M and Gordon, F (2010a) *Evaluation of RESET: A major programme for young offenders*. London: Catch 22.

13. Rutherford, A (2002) *op cit*.

14. Bateman, T and Hazel, N (2014) *Resettlement of young people leaving custody: lessons from the literature – Update March 2014*. London: Beyond Youth Custody.

15. Prime, R (2014) *Children in custody 2013-14: an analysis of 12-18-year-olds' perceptions of their experience in secure training centres and young offender institutions*. London: HMIP.

Not all children have benefitted equally from the fall in youth imprisonment. The decline for minority ethnic children has lagged behind that of their white counterparts. Accordingly whereas black children accounted for 14 per cent of the total detained population in September 2008, by September 2015, the proportion was more than 20 per cent. For mixed heritage children, the equivalent figures were 6 per cent and 10 per cent.¹⁶ While rising disproportionality is a concern in its own right, there is also evidence that these two groups of children have, on average, significantly higher levels of need than those from other ethnic backgrounds coming into contact with the justice system, providing further confirmation of the increasingly vulnerable nature of the incarcerated population.¹⁷

At the same time, the ability to respond effectively to escalating need has been compromised by the configuration of the secure estate. Population shrinkage, leading to closure of custodial institutions, has been associated with an increase in the distance of the establishment in which children are detained from home with adverse consequences for the maintenance of meaningful contact with the community to which they will return. In 2014, just 37 per cent of children reported that it was easy for family and friends to visit them.¹⁸ In addition, in at least some institutions, a higher concentration of gang involved young people has encouraged a prioritisation of security over rehabilitation.¹⁹

Additionally, it is hard to ignore the impact of austerity on the capacity of community-based providers to deliver resettlement. Between 2008/09 and 2013/14, total resources available to youth offending teams

(YOTs) fell by more than 16 per cent.²⁰ Recent in-year savings to the Youth Justice Board's (YJB) budget has resulted in a £9 million reduction in the grant to YOTs amounting to a 14 per cent cut in the central funding to those agencies.²¹

But these not inconsiderable challenges should be balanced by a recognition that there are too opportunities. Firstly, while the custodial experience is generally considered a negative one that makes reoffending more — rather than less — likely, the transition back to the community also provides a 'window of opportunity'.²² The custodial episode gives space for children to reflect, and research confirms that on release the large majority are committed to change and moving away from offending.²³ Three-quarters of supervisors thus consider that young people are more cooperative at the end of their custodial sentence than at the outset.²⁴ However, the window rapidly closes and, unless requisite support is in place, the opportunity for change dissipates as children return to the environment from which they came. The transition is accordingly also a particularly risky period, in which the potential for breach and reoffending is at its highest.²⁵

A second ground for optimism is the accumulation of a body of evidence on effective resettlement that can facilitate maximising the opportunities that children's hopes about their future afford.²⁶ Finally, repositories of practice- expertise, well-placed to make best use of the emerging evidence-base, have developed in the form of resettlement consortia, promoted by the YJB and covering areas with a high use of custody and a history of partnership working.²⁷

... it is hard to ignore the impact of austerity on the capacity of community-based providers to deliver resettlement.

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16. Derived from Ministry of Justice (2015) *Monthly youth custody report – September 2015*. London: Ministry of Justice.
 17. May, T, Gyang, T and Bateman, T (2010) *Exploring the needs of young Black and Minority Ethnic offenders and the provision of targeted interventions*. London: Youth Justice Board.
 18. Bateman, T and Hazel, N (2014) *Resettlement of young people leaving custody: lessons from the literature – Update November 2014*. London: Beyond Youth Custody.
 19. See, for instance, HM Inspectorate of Prisons (2015) *Report on an announced inspection of HMYOI Feltham (children and young people) by HM Chief Inspector of Prisons, 11-15 August 2014*. London: HMIP.
 20. Ministry of Justice (2015) *Youth Justice Statistics 2013/14. England and Wales*. London: Ministry of Justice.
 21. Youth Justice Board (2015) *Response to the consultation proposal to reduce the Youth Justice Board's expenditure in 2015/2016*. London: Youth Justice Board.
 22. Bateman, T, Hazel, N and Wright, S (2013) *Resettlement of young people leaving custody: lessons from the literature*. London: Beyond Youth Custody.
 23. Hazel, N and Liddle, M (2012) *Resettlement in England and Wales: Key policy and practice messages*. London: Youth Justice Board.
 24. Hazel, N, Hagell A, Liddle, M, Archer, D, Grimshaw, R and King, J (2002) *Assessment of the detention and training order and its impact on the secure estate across England and Wales*. London: Youth Justice Board.
 25. Bateman, T, Hazel, N and Wright, S (2013) *op cit*.
 26. For a recent summary see Bateman, T, Hazel, N and Wright, S (2013) *op cit*.
 27. Bateman, T and Hazel, N (2014) *Resettlement of young people leaving custody: lessons from the literature – Update August 2014*. London: Beyond Youth Custody.

Recognising resettlement as a process

The activities that make up resettlement are scarcely new. While the introduction in 2000 of the detention and training order (DTO), optimistically heralded by the YJB as a 'better sentence',²⁸ undoubtedly helped to focus attention on the importance of preparing incarcerated children for release, previous custodial sentences for children had routinely included an element of statutory post-custody supervision.²⁹ The terminology used to refer to those activities has however changed, and while the significance of linguistic shifts should not be overstated, they do in this instance reveal something of how thinking has altered over the period.

Subsequent to its first appearance in a 1998 Home Office consultation paper, 'resettlement' became the preferred expression for what had previously been known as 'throughcare' and 'aftercare'.³⁰ The new nomenclature had the advantage of drawing attention to the fact that custody was a disruptive experience that would require readjustment on release, but it also implied erroneously that children had been settled before their incarceration and that the task was simply to restore the status quo. Moreover, if previous terminology had unhelpfully separated out activities appropriate to the custodial episode from those undertaken in the community, resettlement at least allowed for an understanding — without necessarily prescribing it — that good practice involved a process covering the entire sentence.³¹ Conversely, the shift away from expressions which had emphasised the importance of care for the imprisoned population might be seen as reflecting a hardening of policy towards children in conflict with the law, intimating that caring was not a legitimate function of youth justice agencies.³² Given the overwhelming evidence of vulnerability outlined above, this — albeit

implicit — denial of the centrality of attending to the welfare needs of the custodial cohort arguably did little in the short term to promote effective practice.

Whatever the impact of such shifts in vocabulary, the understanding that resettlement is a process that spans the custody-community divide is now well established and clearly represents conceptual progress. The rhetoric that surrounded the introduction of the DTO emphasised that it was a 'seamless sentence', promoting continuity of provision from the secure estate into the community.³³ Importantly, planning for release should commence at the start of the custodial episode and focus on preparation for the longer-term release rather than on short term behaviour management or on allocation to a restricted range of pre-determined programmes within the institution.³⁴ Similarly, community-based resettlement provision should build upon, and represent a continuation of, work undertaken while in custody.³⁵

... community-based resettlement provision should build upon, and represent a continuation of, work undertaken while in custody.

A process with purpose

If acknowledgement that effective resettlement is a process rather than a prescribed range of activities in custody and the community is a positive step, it nonetheless raises the question

of what that process consists in and what it should aim to achieve. In one sense the ultimate goal is clearly delineated since the purpose of resettlement is obviously to enhance the prospect that children will desist from offending, and live constructive, fulfilling, lives as a consequence of the intervention. The key issue is then what sort of process is most likely to deliver that outcome.

The YJB's resettlement framework emphasises the importance of addressing children's needs as a fundamental task for resettlement agencies. It specifies five pathways that should underpin effective provision: accommodation, education training and employment, health and substance misuse, the involvement of

28. Youth Justice Board (2000) 'The detention and training order: a better sentence for young offenders' in *Youth Justice Board News* Issue 4, June 2000.

29. The detention and training order was introduced by section 73 of the Crime and Disorder Act 1998.

30. Home Office (1998) *Joining forces to protect the public: a consultation paper*. London: Home Office.

31. The preferred expression in many Western jurisdictions outside of the UK is 're-entry' which, like aftercare and throughcare, tends to divorce responsibility for what happens on release from what happens prior to it.

32. Raynor, P (2004) 'Opportunity, motivation and change: some findings from research on resettlement' in Burnett, R and Roberts, C (eds) *What works in probation and youth justice: developing evidence based practice*. Cullompton: Willan.

33. Home Office (1997) *No more excuses: a new approach to tackling youth crime in England and Wales*. London: Home Office.

34. Altschuler, DM, Armstrong, TL and Mackenzie, DL (1999) *Reintegration, supervised release and intensive aftercare*. Washington: Office of Juvenile Justice and Delinquency Prevention.

35. Hazel, N and Liddle, M (2012) *Resettlement in England and Wales: Key policy and practice messages*. London: Youth Justice Board.

families and financial stability.³⁶ Given the typical characteristics of children consigned to the secure estate, such a focus is understandable and it is obvious that without a stable place of residence, legitimate means of subsistence, the prospect of future employment opportunities and a drug-free lifestyle the chances of reduced offending are, at best, modest.

There is considerable unanimity that meeting the broad range of complex needs displayed by the child custodial population is beyond the remit of any single agency and requires effective partnership.³⁷ Recent evaluation of resettlement initiatives has highlighted the importance of a 'brokerage' function that ensures collaborative working between multiple stakeholders and facilitates access to the full range of services required to deliver continuous packages of care across the two phases of the sentence.³⁸

Children themselves confirm the importance of such support. A survey conducted for the YJB in 2012 found that the majority were concerned about whether they would have sufficient income to survive on release and whether they would have somewhere suitable to live. Forty-five per cent were worried about whether they would be able to access education. Disappointingly such concerns appeared to be borne out of experience since less than one in four considered they received sufficient help with the problems that had led to them offend.³⁹ Other research has found that many young people regard post-custody provision to be largely 'irrelevant, tedious and repetitive' and focused on risk rather than opportunity.⁴⁰

From risk to opportunity

The latter finding points to a potential difficulty with mainstream framing of resettlement: despite the

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patent importance of addressing need, there has been a tendency to locate such activity within a risk-based paradigm that focuses practitioner attention on 'criminogenic' risks. Such an approach has been subject to extensive criticism for treating children as 'crash test dummies' whose fate is largely determined by their exposure to risk, rather than regarding them as active individuals with a capacity to make choices (albeit constrained by their socio-economic position).⁴¹ The focus on correcting supposed deficits rather than adopting a future orientation limits the potential for children being involved as agents of their own rehabilitation and accordingly tends to undermine engagement between children and those responsible for their rehabilitation.⁴²

This is particularly problematic since engagement is widely acknowledged to be a pre-requisite of effective youth justice practice, although here too there is scope for differences of interpretation.⁴³ It is common ground that without active participation on the part of the child, rehabilitative interventions are unlikely to have the desired effect. At the same time, attendance, or 'behavioural engagement', does not guarantee a particular outcome since compliance might be superficial.⁴⁴ 'Genuine'

engagement involves some additional emotional or cognitive commitment on the part of the child who accepts the objectives of the intervention and is motivated to accrue their benefits.⁴⁵ Until recently, however, the primary focus of youth justice professionals, guided by national standards, has too frequently been on the maintenance of superficial compliance through enforcement.⁴⁶

There is too a further sense of engagement that refers to the strategies of service providers and the actions of practitioners to engage children in the

36. Youth Justice Board (2005) *Youth resettlement: a framework for action*. London: Youth Justice Board.

37. Beyond Youth Custody (2015) *op cit*.

38. See for example, Hazel, N, Liddle, M and Gordon, F (2010) *Evaluation of RESET: a major programme for young offenders*. London: Catch 22.

39. Glover, J, Webster, L, White, J and Jones, N (2012) *Developing the secure estate for children and young people in England and Wales: young people's consultation report*. London: Youth Justice Board.

40. Gray, P (2010) 'The resettlement needs of young offenders leaving custody: an emotional dimension' in *Prison Service Journal* 189.

41. Case, S and Haines, K (2009) *Understanding youth offending: risk factor research, policy and practice*. Cullompton: Willan

42. Bateman, T (2015) *op cit*.

43. Ipsos MORI (2010) *A review of techniques for effective engagement and participation*. London: Youth Justice Board.

44. Fredricks J, Blumenfeld P and Paris A (2004) 'School engagement: potential of the concept, state of the evidence' in *Review of Educational Research* 74(1) pp.59-109.

45. Mason, P and Prior, D (2008) *Engaging young people who offend: source document*. London: Youth Justice Board.

46. Hazel, N, Hagell, A and Brazier, L (2002) *Young offenders' perceptions of their experiences in the criminal justice system*. Swindon: Economic and Social Research Council.

process of resettlement. In this sense, engagement might be understood as a set of professional skills. The multi-dimensional nature of the concept thus implies a form of relationship between the child and the service provider. The importance of relationship for effective practice has too been confirmed by an impressive body of research-evidence⁴⁷ which, significantly, accords with a key message from children, across a wide range of services, that what matters to them above all else is consistency of relationship with a trusted adult.⁴⁸ McNeill has argued convincingly that genuine engagement depends upon the child regarding the exercise of the authority by those responsible for statutory supervision as legitimate; legitimacy in turn depends upon the relationship between the two parties.⁴⁹ But if the case for high quality relationships as an essential pre-cursor of effective resettlement is well made, the precise role that relationships play in desistance process requires further articulation.

An alternative to the risk factor paradigm is provided by a growing literature which highlights the importance of subjective considerations — as well as objective external influences — for desistance. Children who continue to offend are more likely to regard themselves as victims of circumstance, and feel they have little choice over the future direction of their lives. Conversely, those who successfully make the transition to a law-abiding lifestyle are considerably more optimistic, see themselves as in control of their own destinies and have a sense of hope as to what the future holds, even if that optimism may, on occasion, understate the obstacles confronting them in that endeavour.⁵⁰ Concentrating on risk factors associated with past offending might accordingly be counterproductive by comparison with promoting strengths and fostering a sense of agency that can contribute to future positive behaviour. The role of resettlement is accordingly not simply to broker access to opportunities such as education, employment and accommodation — albeit that such access is essential; nor is it just to provide interventions that address welfare needs — though without such support, desistance is unlikely. Effective resettlement also involves staff engaging — through high quality relationships — with children to encourage plausible

narratives of desistance and promote personal agency to better enable them to take advantage of the 'window of opportunity' afforded by the release from custody. Achieving that aim is significantly more likely where children consider that staff with whom they work show that they 'care' for them as individuals by demonstrating compassionate, offering emotional support, acknowledging the impact of earlier negative experiences and, in at least some instances, the previous failure of justice agencies to deal with them in a caring manner.⁵¹

Resettlement as a shift in identity

Integrating these various strands of research evidence, Beyond Youth Custody, a partnership that promotes effective youth resettlement policy and practice, has suggested that resettlement can be helpfully understood as a process of transformation that, where successful, facilitates a shift in identity on the part of the child 'from a socially marginalised offender to a socially included non-offender'.⁵² By the same token, it is suggested that the potentially ambiguous, multi-dimensional, nature of engagement can be best captured by conceptualising it as a three stage process that facilitates that transformation, involving:

- ❑ Resettlement providers engaging with the child — to establish a meaningful connection as a prerequisite for effecting a shift in identity
- ❑ The child engaging with the resettlement service — forming relationships with staff and coming to identify with the goals of the provision. This requires the child to commence the journey of adopting a different identity while professionals simultaneously promote that transformation
- ❑ The child engaging with the wider society — by developing a transformed relationship with the world around them, translating the potential offered by engagement with resettlement provision into a reality, initially with the ongoing support of resettlement services but ultimately independently of such support.⁵³

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47. See for instance, McNeill, F (2006) 'Community supervision: context and relationships matter' in Goldson, B and Muncie, J (eds) *Youth Crime and Justice*. London: Sage.
48. See for instance, Children's Commissioner for England (2015) *State of the Nation: Report 1: Children in care and care leavers survey 2015*. London: Children's Commissioner for England.
49. McNeill, F (2009) 'Supervising young offenders: what works and what's right' in Barry, M and McNeill, F (eds) *Youth offending and youth justice*. London: Jessica Kingsley.
50. Burnett, R and Maruna, S (2004) 'So "prison works", does it? The criminal careers of 130 men released from prison under Home Secretary, Michael Howard' in *Howard Journal of Criminal Justice* 43(4) pp.390-404.
51. Bateman, T, Melrose, M and Brodie, I (2013b) 'Nothing's really that hard – you can do it': agency and fatalism: the resettlement needs of girls. Luton: University of Bedfordshire.
52. Details of the *Beyond Youth Custody* partnership are available at: <http://www.beyondyouthcustody.net/>
53. Bateman, T and Hazel, N (2013) *Engaging young people in resettlement- research report*. London: Beyond Youth Custody.

Faulty transmission?: resettlement on the ground

There is of course no automatic transmission from evidence to practice. The emergence of resettlement consortia has facilitated the dissemination of research findings among the practitioner community and effective resettlement is more common than it was. Nonetheless, the overall picture is patchy at best.

A recent thematic inspection of resettlement services for children concluded that while ‘some excellent work’ was taking place in custody and the community, resettlement was more commonly characterised by poor outcomes, associated with inconsistent information sharing, disjointed planning, and a lack of appropriate support to children when it was most needed.⁵⁴ Just one third of a sample of 29 children subject to DTOs had fully complied with expectations of post-custody supervision, five had been returned to the secure estate as a consequence of breach and nearly half had been arrested for further offending, often within weeks of release. While acknowledging that the complexity of the caseload poses genuine difficulties for service providers, inspectors considered that a failure to implement consistently the lessons of research contributed to the disappointing results. Joint planning between custodial staff and those based in the community was limited, activities within the secure estate were frequently not focused on preparing children for release, YOT staff were too little involved in the custodial phase of the sentence in two thirds of cases, and adequate arrangements for stable accommodation, education or training, and suitable emotional support were often in place too late or not at all.

This rather discouraging assessment of the current resettlement landscape should however be seen in context: 21 of the 29 tracked cases involved boys confined in YOIs; the remainder involved girls detained in secure training centres (STCs; none of children were in secure children’s homes (SCHs). Recent research conducted on behalf of the Children’s Commissioner for England, exploring the prevalence of isolation in the children’s secure estate identified that children’s experiences in custody vary considerably according to the nature of their placement. Thus children who experience isolation in a YOI are, over a seven month period, likely to

spend more than eight times as long separated from their peers, and consequently denied access to rehabilitative activities, than their counterparts in SCHs.⁵⁵ This differential is explained largely in terms of staff to child ratios (typically 1 to 10 in YOIs and 1:2 in SCHs), the small size of the latter institutions and the more flexible regimes available within them. Similar evidence of the structural difficulties associated with large-scale and understaffed custodial provision is routinely documented in inspections. Most recently, it was reported that boys at Cookham Wood had, on average, no more than five hours a day out of their cells and more than a third were locked in their cells during the core day.⁵⁶

It is scarcely surprising that, in such conditions, staff struggle to deliver resettlement provision in the manner the evidence-base suggests is required if it is to make a real difference. Children themselves confirm this suggestion. Table 1 compares the responses of children in YOIs with that in STCs (which are intermediate between SCHs and YOIs in terms of size and staffing ratios) on a number of issues relevant to effective resettlement which in each case demonstrate a better experience for those detained in the latter form of provision.⁵⁷ (There are no comparable data for SCHs, but to the extent that size and staffing are significant factors, one might reasonably anticipate better outcomes still for this sector).

Percentage of children reporting	YOIs	STCs
Having felt unsafe in the establishment	30%	20%
Having a training, sentence or remand plan	51%	62%
Education in the establishment will help on release	65%	74%
Staff treat me with respect	74%	93%
Key worker/ personal officer tries to help me	73%	92%
Having done anything in the establishment that will reduce the likelihood of offending	47%	70%

The gap between resettlement theory and practice is accordingly, at least in part, a function of the make-up of the custodial estate for children. In September 2015, 70 per cent of incarcerated children were detained in YOIs, establishments least able to meet their resettlement needs.⁵⁸ Removing children from such provision to smaller, better staffed, units may be a prerequisite of narrowing the implementation gap.

54. HM Inspectorate of Probation (2015) *Joint thematic inspection of resettlement services to children by Youth Offending Teams and partner agencies*. London: HM Inspectorate of Probation.
55. Children’s Commissioner for England (2015) *Unlocking potential: a study of the isolation of children in custody in England*. London: Children’s Commissioner for England.
56. HM Inspectorate of Prisons (2015) *Report on an unannounced inspection of HMYOI Cookham Wood*. London: HMIP.
57. Prime, R (2014) *op cit*.
58. Ministry of Justice (2015) *Monthly youth custody report – September 2015*. London: Ministry of Justice.

Interview: Dame Sally Coates

Dame Sally Coates is a distinguished headteacher who is leading a review of prison education. She is interviewed by Dr Jamie Bennett, Governor of HMP Grendon and Springhill.

Dame Sally Coates is the most distinguished headteacher of her generation. She became an English teacher at Peckham Girls School in 1976 before moving to Sacred Heart Catholic School in Camberwell where she spent the next 20 years working in various posts including four years as Headteacher. Under her leadership, the school was assessed by OFSTED as being 'outstanding'.

In 2008, she took up post as Headteacher of Burlington Danes School in West London. The school had been placed in special measures in 2006 due to its poor performance. Many of the pupils were from economically deprived backgrounds, with almost 70 per cent qualifying for the pupil premium grant. Over the next five years, the school was transformed, being rated as 'outstanding' by OFSTED in 2013, and with almost four out of five pupils attaining five GCSEs grade A to C. This achievement was recognised by the award of a Damehood in the 2013 New Year Honours List.

Since 2014, Dame Sally has been Director of Academies South for United Learning, a charitable organisation that operates schools in both the independent and public sector. She has also taken an active role in policy development, including chairing the Independent Review of Teachers' Standards in 2011. She published a book in 2015, reflecting upon her experiences, titled *Headstrong: 11 lessons of school leadership*.¹

In September 2015, Secretary of State for Justice, Michael Gove announced a review of the provision of education in prisons.² Dame Sally was appointed to lead this. The review is to examine the 'scope, quality and effectiveness of current education provision...in particular...how provision supports learner progression and...successful rehabilitation'. It will consider domestic and international evidence and present options for future models of delivery. It is due to be completed by the end of March 2016.

This interview took place in February 2016.

JB: Could you tell me about your background before you entered the teaching profession

SC: I've been a teacher all my working life. I grew up in Maidstone in Kent. My father was a salesman and my Mum was a dinner lady. I went to a small independent, Catholic school. It was cheap and the education wasn't very good. When I was twelve my father died and after that we had no money, so my fees were paid by a charity.

I got a clutch of good O-levels but as my school didn't go beyond 16, I went to Maidstone Girl's Grammar. I sank as I went from a small school to an elite institution. I got a couple of A-levels and an S-level and went to teacher training college. I hadn't really wanted to be a teacher, I was doing it because I didn't get the grades to do law, which is what I thought I wanted to do. When I started teaching, I found that I loved it and I've never looked back.

I spent four years at teacher training college, completing a degree before my first job as an English teacher. This was in a huge girl's school in Peckham with 11 forms of entry. It is still a tricky area, but then it was an area where nobody had any control and I was thrown in at the deep end. Now you get mentored and get additional free time, but then, in the 1970s, I got thrown in with a full timetable and got the toughest class because I was the new girl on the block. It was quite a baptism of fire. I survived it and loved it. Even in difficult schools, you can create oases of excellence.

JB: What was it you loved about teaching?

SC: I loved the interaction. I was teaching A-level to 18 year olds when I was only 21 myself, so there wasn't much of a gap. As a teacher, when you close your door it's really special. You shut out the world and it's just you and the kids. There is a magic about interacting with thirty children or teenagers and being able to motivate them and make them love literature with as much passion as I have. I loved getting to know about them and their lives. At the time there was not much accountability in education, but seeing some people who came from a working class background go off to university was great. I remember some children that were so gifted and yet they left school at 16. I remember one boy in particular who went to work on the Tube because that is what his family always did. Some children you felt you lost, but others you gained, managed to keep them in education and change their lives. Seeing those children grow up and become adults, there's nothing like it. It's a huge transition in their lives. It can be very rewarding.

JB: How did your career develop?

SC: The school was big and then amalgamated with three other school, becoming bigger and mixed gender. By that time I had a lower management position like Deputy Head of English. I also had my first child when I was there. I wasn't ambitious, but I was frustrated by some of the incompetence above me. I moved school to become Head of English in a school in a similar type of area. I wasn't ambitious, but I was a good teacher and I've always been

1. Coates, S. (2015) *Headstrong: 11 lessons of school leadership* Woodbridge: John Catt Educational.

2. Available at <https://www.gov.uk/government/speeches/education-in-prison>

organised and competent, quick thinking, decisive, those qualities that made me want to take the lead.

The school I moved to, Sacred Heart in Camberwell, I stayed at for twenty years and eventually became the Headteacher. Staying in one place for so long, I loved that I taught children and then later their children. I had three more children so I took my career slowly. It can be difficult to keep your career ticking over when having so many children. I never stopped work, but took it slowly. I stayed Deputy Head there for a long time because much as it was a full-on job, you are never as accountable as the Headteacher and you can work hard in the day but then have more of a break in holidays. When my fourth child was about six, I became Headteacher. That was the right time as the older children were grown up.

That school became an 'outstanding' school under my leadership and the results went up. I was doing well, getting known. I stayed there for four years as Headteacher before moving to lead Burlington Danes, which I am best known for.

JB: As a headteacher, how would you describe your approach? What was the culture you were trying to create? What was your leadership style?

SC: I am direct and honest, I say it as it is. I've learnt that if you don't say things clearly to people then they don't get the message, so I'm clear. If I think someone is incompetent, then I will tell them, albeit nicely. I am a teambuilder, I bring people together and get the best out of them. I can be manipulative, for example I move people around if I think they are not doing a good job but could do better in a different role. In managing change, I recognise that people don't always like change and you have to be careful about how you do that. I plan what I am going to do and say, I have in mind the end result I want but I get people involved in getting to that same point.

In all of the schools I have managed I have tried to create a family culture. It is important that children love school. I'm not 'airy-fairy', there should be clear boundaries, people should know what the rules are and every detail matters. I am hardline about uniform, behaviour and manners. Children should line up in silence, everyone calls me 'Madam', they stand up when I come in the room. I am hardline about all of those ways that children should learn to show respect to their elders. These are old-fashioned traditional values I suppose. At the same time, I do believe in nurturing the individual and standing in other people's shoes. When a child arrives late and you yell at them and put them in detention, you should still be prepared, to understand their lives without allowing excuses. So, if they really have got themselves up and

missed breakfast, you might still put them in detention, but make sure the next day that they have a breakfast when they arrive in school. It is rigour with compassion.

With members of staff, if they have something going on in their life, I will happily grant extra time off. If you show goodwill, you get a lot back. I am rigorous of what I expect, I make people accountable, but I want them to love coming to work, I want them to want to work for me, but I understand that children come first, that is what it is all about.

JB: In education you would have had to manage national changes including changes in the curriculum and resourcing. What do you see as an effective approach to managing change?

SC: You have to be prepared not to do it. Sometimes you can't toe the line on absolutely everything. In education there have been so many changes that sometimes I have ignored them and done what I think is right. Most of the time, I haven't but sometimes I have. The curriculum has been continually changed and I have seen teachers sweating over yet another rewrite. I remember once with science, they rewrote it and I said look, let's stop and ignore this and do what we think is right, as long as in GCSE we are following the syllabus, I don't care what OFSTED say or anyone else will say, I won't have this any longer. Most good leaders do bend the rules and do what is right for

... I am rigorous of what I expect, I make people accountable, but I want them to love coming to work, I want them to want to work for me...

their institution.

Managing change that you have to deliver, you have to make people feel supported. If they trust the leader they will sometimes go along with the change. You have to make it as easy as possible. Try not to make it threatening or be negative about it. If you are saying 'this stupid government they've done this', people automatically resent it. More often than not I will say this is what we have to do, this is how we are going to do it and I try to be positive. I will say it's going to be hard the next few months because we have to do this or that, but it will be better in the long run, I will give you time and support you. When you go into a failing school, as I did at Burlington Danes, it had had four Heads in four years, it was used to people saying they would do this and that, but nothing working. When I managed change in that school, I had to get people to believe and trust me that this time it was going to work. Sometimes you can only do that by the power of your oratory, and people buying into what you are saying and believing you. You have to be persuasive. You also have to be there and visibly support them rather than saying it and not really doing it.

JB: How would you visibly support people?

SC: By physically doing their job sometimes. Not being in my office, but being out in the school all of the time, looking into every classroom as much as I can, being a visible presence in the playground. At all the difficult times being there. Sometimes saying, look you go home, I will take your lessons today. Putting yourself in the front line rather than hiding away in an office, which some people do. Some people say they never see their Headteacher or they are too busy with paperwork, well paperwork can wait. Managing people is the key thing. Sometimes you have to go out to meetings, and meet people, but more often than not it was about being operational as well as being strategic. Being available to people, not difficult to see. Although it was difficult sometimes, I did have an open door policy, people could come in. I would try to see people as freely and quickly as I could.

JB: Turning around an organisation like that often involves hard choices. Some people are capable of helping that change happen but others are not. How do you manage that, both people that will help you to realise the change and others that will not be part of it?

SC: To be harsh, some people have to leave. In my first year at Burlington Danes, I moved 23 people on. I had discussions with them and they left. I wouldn't put anyone as a teacher if I wouldn't have my child in their class. That was always my rule of thumb. If I would be happy with my child in their class then they can stay. If I wouldn't then they have to go, or I have to improve them rapidly. Too many people put up with second rate because either person is a nice person, or it's difficult to say. There are all these reasons why it is difficult to have challenging conversations with people, such as is this the right school for you? Are you doing a good enough job? Explaining that you need to start doing X, Y or Z otherwise it is going to be a different sort of conversation. People often put off those conversations, but if you wouldn't have your child in that class, then no one else should have their child in that class. I will put up with performance that is not good enough for a short period of time, but it has to pick up very quickly. I expect a level of competence from teachers otherwise they have to leave my school. If you put the children first that is the way it is. You are not there just to pay people's mortgages and give them a nice little job to come into every day, it's about more than that.

I set out my stall very clearly. In Jim Collins's book *Good to great*,³ he uses the metaphor of a bus. He says that sometimes people are sitting in the wrong seats or facing in the wrong direction and some people need to get

off the bus and some people need to get on. I use that metaphor when I take over a new institution. I say some of you may need to change seats, some of you may need to change direction, and some of you may need to get off. This institution is my bus and if you are not in the right seat or facing in the right direction, you will have to get off my bus.

JB: You have recently undertaken a review of prison education. How did you come to take this on and what interested you in this?

SC: To be honest, it wasn't something I was particularly interested in. I'd never really thought about prisons at all. I don't think many members of the public do. There was a pupil in my school, a 16 year old, who was put in Feltham on remand during year 11. He was a bright boy and I wanted to keep him in school. He was in care, had a bad background but he was able. I went to the bail hearing and spoke to the judge and asked him to be let out

so that he could complete his GCSEs. The judge didn't accept that and I was dismayed about it. I couldn't understand why the judge made that decision. I visited the boy a few times at Feltham, which was during the time when you couldn't get books in. He couldn't get science revision books in, I had to send them and some didn't get to him. I felt frustrated. Then when it came to his GCSEs, the prison was in lockdown during his English exam, during maths there was

another reason he couldn't go, then a couple of others he was given the wrong paper. He ended up with nothing. Then in the end he wasn't even found guilty but was let out in June. I knew he was then going to go back to the streets. I felt that if he got his GCSEs, he would have gone on to college. As it was, he left with nothing and he was never going to do those GCSEs again. I don't know what happened to him in the end. I was really upset about it. I wrote to the Governor of Feltham but didn't get a reply. I happened to mention this to Michael Gove, who I know, and low and behold a couple of weeks later he asked me to lead this review.

JB: How did you undertake this review? What process did you adopt?

SC: As I can't do this full time, I asked for panel of experts, and they know a lot more about prisons than me. We've visited a lot of prisons, I have personally visited 12 or 13. The group all together have visited around 30. There comes a point where you're seeing the same thing, but we have tried to visit a range. We had a 'Call for Evidence', which produced hundreds of replies, all of which I have read. We have called witnesses to our panel. We have

I will put up with performance that is not good enough for a short period of time, but it has to pick up very quickly.

3. Collins, J. (2001) *Good to great* London: Random House.

heard from experts in areas such as special educational needs, we've heard from all of the providers and we have had a Roundtable of Governors and another of stakeholders. I also went on an OFSTED inspection in a prison. Due to my lack of knowledge, I have tried to read and learn and talk to as many people as possible. We've also talked a lot to prisoners. At the prisons we've visited, we've talked to focus groups and more informally when visiting wings and in classes. I have tried to learn and gather as much information as possible and then identify the themes that come out.

JB: The recent OFSTED annual report highlights the extent of the problem of education in prisons. The report says that prison governors are not prioritising education and as a result standards are declining with three quarters of inspections last year being rated as 'requires improvement' or 'inadequate'. What do you see as the role of the governor in achieving change?

SC: The Governor, as leader, is essential to bringing about improvement. What I don't want to do is give Governor's more jobs as they already work extremely hard and have a lot on their plate. I want to shift the priorities so that education and rehabilitation becomes more central. I want Governors to have more accountability for this, but also more control over their own destiny. At the moment if I said you are responsible for the education outcomes then that would not be fair because you have no say over who provides it and the standards and quality expected. I want Governors to lead on this and focus on education not only in the classroom but in a broader sense including training for work, life skills, art and creativity. Education in its broadest sense should be more central but it is hard because it will take more resources, and with that level of accountability Governors will need more support.

I went into HMP Isis recently. It was a well run prison, but one of the things that struck me was how little remorse some of the men had. I spoke to one man who said, 'it is not fair, I have a business and I'm losing all my clients'. I said you shouldn't have got yourself into prison. I felt strongly, perhaps because they are young, that they have no sense of having done anything wrong. It was difficult to talk about rehabilitation because the first step is that they come to terms with what they have done and take responsibility for it, then look at how they can improve so that when they come out they don't do it again. At the moment I felt that they would go back to crime because they didn't accept what they had done was wrong.

JB: Prisons have a challenging population — mental health problems, social disadvantage,

substance misuse, disrupted educational history, learning disability — does this constrain what can be achieved?

SC: Those pupils in schools are difficult and their needs are not always met. It isn't ever going to be perfect. Prison is really too late because by the time they have got there they have missed so many opportunities along the way. All you can do is try to pick up the pieces and mend as many of the holes as you can. We can, however, do more than we are doing now.

JB: Where will governors get the right advice and support regarding education? Heads of Learning and Skills has become a generalised role no longer requiring an education background and has been reduced in organisational seniority. Can this role still provide the expertise many governors require so they can be assured that the highest standards are being achieved and that learners are meaningfully progressing?

SC: That is where Governors will need more resources and support. It is vital that the person who provides that support is an educationalist. I have been in many prisons where there person is from an administrative background without any educational background. There will be some early adopter 'reform' prisons, maybe we need to look at the structure and get an educationalist into that. If education is central to

I want to shift the priorities so that education and rehabilitation becomes more central.

what the prison is trying to do, then you need someone at a senior level who is leading on that priority. The prison inspectorate and OFSTED can also support this by making purposeful activity a limiting judgement on the prison. We are looking to change the focus of inspection so as to reinforce this priority.

JB: Current curricula are constrained by OLASS funding rules. Is there a case for greater flexibility?

SC: Absolutely. There has got to be greater flexibility, particularly where you have lifers and people on long sentences, you've got to be able to move beyond level one and two. There has got to be a case for being able to offer level three and access to degrees and even Open University degrees. There may be a case for relaxing the rule that student loans can only be given six years from release. I also hope there will be scope for more independent learning through the expansion of technology including in-cell technology. We have to relax to rules so that we can offer courses that are not just literacy and numeracy, business studies, but we can move into art and other areas that build self-esteem. For a Governor it is frustrating that prisoners keep doing level one and two. At Isis I met someone who had an English degree but was doing level two English because

that is the only way the providers can draw down the money.

JB: Education and learning take place not only in the classroom but in prisoner workplaces and in other parts of the regime. How can this be formalised and developed?

SC: The classroom has been somewhere that many prisoners have failed and they have bad memories of it. There is a place for it, but it is also important to embed learning within work areas so it can help prisoners get a job. More education on the wing such as reading groups can also promote learning. Accessing education can be difficult and getting it into workshops is what needs to be done.

JB: There are many great teachers in prisons, but there is also sometimes a perception that teaching in prisons is outside of the mainstream. How can the best teachers be brought into prison teaching and those who work in prisons get recognition for their work?

SC: Teaching in a prison never occurred to me. We would all probably know inside ourselves if we thought about it that education takes place in prisons, but it is never a career track that gets publicity. It is a hidden job. The first thing is to give it more of a career structure. In prisons there is little in the way of middle leadership so there isn't clear advancement. We need to publicise it and make it more attractive. There are lots of aspects that make it attractive, for example you don't take marking home. We have also tried to recruit 'teach first' teachers, who will go in as a secondment or a learning experience. We can market it, so it is more attractive. In particular, you are making a difference to some of the people who are most disadvantaged in society. If people have that sense of mission, then prison is a place where that can be achieved.

JB: What kinds of partnerships should governors develop in order to improve education? Not only with contract providers but also with other potential sources of education for prisoners? For example, there has been positive reports on the Learning Together programme involving students from universities and within prisons undertaking joint courses.

SC: That is excellent and has good results. We have heard many good things about Learning Together. With the local college, if they saw the prison as another part of their campus so there were more links including continuation after release then that would be a positive step. This can help prisons to be seen as part of the community.

JB: Information technology is restricted in prisons and often seen as a potential source of risk

rather than an opportunity. How can this be developed further so as to enhance education? Is the security requirements of prison life always going to constrain and limit work in this area?

SC: I have spoken to people who have been in the Prison Service for a long time and they say that this is the same argument that was made about telephones. Technology has many possibilities. There will be some people who will break the rules and manage to get through the firewalls put in place. We cannot, however, have a system that is built around the few people that might be able to circumvent the system. My recommendations include bringing Virtual Campus back to life. At HMP Belmarsh they can't use Virtual Campus as their broadband doesn't work. Isis and Thamesmead which are next door can use it. That's ridiculous. Every prison in the country needs to have it working and available. We will be moving towards better use of technology including in-cell technology. Where that exists there is no reason that there can't be access to an intranet including educational software. Eventually it might be possible for risk assessed prisoners to have access to facilities such as Skype in order to contact relatives. We have to bite the bullet and do it. More than anything else, technology can help to transform what happens in prison.

JB: Prison education has the potential to change the lives of prisoners, the experience of staff and the institutional culture, but is often marginalised within the organisation. Can your review change this?

SC: The Secretary of State and Prime Minister can change that. I have kept them in the loop of my emerging findings and what the review is going to say. I want to make sure that they will agree with what I recommend as there's no point if it is going to fall on deaf ears and nothing is going to happen. There are two big issues. First are the early 'reform' prisons with Governors having more autonomy over what happens including over budgets and education. The second is the inspection regime having teeth and people being accountable for what is found. Once you have that there is a change in behaviour. That is what happened in schools. There didn't used to be accountability in schools. In my first school there would have been about 3 per cent achieving grade A to C at GCSE if anyone had been counting. The minute league tables were brought in there was transparency, data was collected and accountability was clear. With Governors I know that there are problems with reoffending data because of prisoner mobility, but there are progress markers that you can put in place along that journey. The minute that comes back to the Governor, you will change things.

PRISON SERVICE JOURNAL

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