



In Care, Out of Trouble

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

An independent review chaired by Lord Laming

Impact report - January 2017

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A. Introduction

The challenge

Looked after children in England and Wales are significantly over represented in the criminal justice system. In England, children in care are five times more likely to be cautioned or convicted of an offence than children in the general population.ⁱ Although only 1% of children in Englandⁱⁱ and 2% of those in Walesⁱⁱⁱ are looked after, the 2015-16 survey by HM Inspectorate of Prisons found that 37% of children in young offender institutions and 39% of those in secure training centres have experience of local authority care.^{iv}

Review process

This independent, charitably funded review was launched by the Prison Reform Trust in June 2015 to examine the reasons behind this over representation and how best to tackle it. Lord Laming kindly agreed to chair the review, which would not have been possible without initial funding by the J Paul Getty Junior Charitable Trust and generous support from the Olswang Foundation, J Leon Charitable Trust, Hadley Trust, Persula Foundation, Warburg Pincus, AB Charitable Trust and kind individual donors.

Lord Laming has been assisted by an expert panel which includes children and young people with recent experience of care and the criminal justice system, as well as senior police, social care and youth justice practitioners, and representatives of relevant national agencies.

We are grateful to all the panel members and volunteers who supported the review, and those who made submissions. We thank in particular the young people who took part in the panel and all the children, young people and adults who shared their personal experience of care and the criminal justice system, giving us the benefit of their knowledge and ideas about what would make things better.

We received over 220 written submissions from children, young people and adults with experience of care and the criminal justice system, foster carers, social workers, family members, local authorities, police forces, care home managers and a range of national organisations and professional bodies. We held a number of oral evidence sessions and meetings around the country, and over 90 local authorities responded to our data survey.

We launched the review's findings in May 2016, publishing a [summary](#) report^v and [literature review](#)^{vi}. In August we published the [full review report](#)^{vii}, which gives a fuller account of the evidence received, discussion of context and analysis of data. All the review publications can be downloaded at: www.prisonreformtrust.org.uk/carereview

We found that children in care and young people leaving care are still being unnecessarily drawn into the criminal justice system, although good practice in some areas has achieved tangible results.

Lord Laming made wide ranging recommendations for action to be taken in order to make good practice standard practice everywhere. These are summarised below, together with an account of progress made since publication.

Review findings

The aim throughout the review was to encourage good practice and ensure that sound quality standards become the everyday experience for each and every child who has to depend on the state for their safety, their development and their confidence in the future -

crucially, that all looked after children in England and Wales are protected from being needlessly drawn into the criminal justice system.

The good news is that this is being done in some areas, but practice remains inconsistent. While the overwhelming majority of children and young people in care do not offend, a significant minority of looked after children are still experiencing the damaging effects of unnecessary involvement in the criminal justice system.

The volume, variety and quality of the submissions received by the review demonstrate the strength of feeling amongst young people, parents and professionals alike, that we can and must do better in helping children in care to stay out of trouble. Lord Laming has called on national and local leaders to have the same ambition for every child in the state's care, and for good practice to become standard practice throughout England and Wales.

In summary, the review found that:

- The protection of children in care from being needlessly drawn into the criminal justice system is still not given high enough priority at national or local level. Strong leadership is needed from central and local government, and from other local leaders such as police and crime commissioners and health commissioning bodies, to make clear the expectation on all national and local agencies to ensure children in care are protected from needless criminalisation. National guidance is needed to ensure consistency in police practice.
- Effective early help services and good parenting by the state have a central role to play in protecting children in care, and on the edge of care, from being drawn needlessly into the criminal justice system.
- The numbers and proportion of looked after children getting involved with the criminal justice system have been successfully reduced in places where children's services (in England) or social services (in Wales) are working closely together with the police and other criminal justice agencies, with common goals and clear and regular channels of communication. This should be standard practice everywhere.
- All professionals working with looked after children, including within the criminal justice system, must understand how to engage effectively with them, treat them with respect and understanding and ensure they are fully informed and able to participate in matters affecting them.
- Deficiencies in data mean we do not know the extent of the problem and this undermines progress. This problem is particularly acute for looked after children and young people in minority groups, including children and young people who are black or from other minority ethnic groups; children and young people of Muslim faith; girls; and children and young people with disabilities and developmental disorders.
- Foreign national children in care and victims of trafficking require better protection from criminalisation and its consequences.
- Leaving care is well known to be a time of great vulnerability and risk, and more must be done to protect young people at this critical stage in their lives, with support both emotional and practical. This will play a fundamental role in protecting young people leaving care from criminalisation.

Concurrent government-commissioned reviews

During the course of this review, the government launched three reviews with the criminalisation of looked after children potentially within scope:^{viii}

Charlie Taylor's review of youth justice in England and Wales^{ix}

Charlie Taylor's review of youth justice in England and Wales (the Taylor review) was commissioned by the Ministry of Justice in September 2015. Lord Laming and the review panel made oral submissions to the Taylor review at a meeting in December 2015 regarding the over representation of looked after children in the criminal justice system and the need for stronger leadership and improved local joint working to overcome this.

Charlie Taylor's findings and recommendations were published together with the government's initial response in December 2016. Charlie Taylor specifically considered the over representation of looked after children in the criminal justice system as part of his review, recommending that:

- Local authorities should ensure care home staff are trained and local joint working protocols should be implemented to reduce the prosecution of looked after children for minor offences.
- The Home Office, Department for Education, Welsh government and National Police Chiefs Council should work together to make sure that police officers have full discretion in responding to incidents and offences in children's homes, and that there is a presumption of no formal criminal justice action being taken unless absolutely necessary. He specified that this should include consideration of adopting a version of the schools protocol for minor offences committed in children's homes, and ensuring that call outs to children's homes should not result in personalised information about a child subsequently being disclosed.
- In its inspections of children's services, Ofsted should maintain a distinct focus on the criminalisation of looked after children.
- The information systems of youth justice services and children's services should be integrated to avoid parallel planning ('a one-child, one-plan system owned and contributed to by all relevant partners').

The government has yet to respond to these recommendations.

Sir Martin Narey's review of children's residential care in England^x

Sir Martin Narey was commissioned in October 2015 by the then Prime Minister and the Department for Education to conduct a review of children's residential care in England (the Narey review). The Prison Reform Trust made a written submission to the Narey review in December 2015 regarding the over representation of looked after children in the criminal justice system, the role of restorative practice in care homes in minimising police call outs, and the relatively poor experience of looked after children in custody. Sir Martin's findings and recommendations were published in July 2016. In relation to the criminalisation of looked after children, he recommended that:

- The government should encourage the implementation of local joint working protocols aimed at reducing the prosecution of children in care homes for minor offences.
- The Home Office should introduce a crime recording protocol for offences in care homes similar to that in operation in schools.

In its response to the Narey review, published in December 2016, the government made a commitment to produce a national concordat to reduce the criminalisation of looked after children, as well as practice guidance (both to be published in 2017), and to work with the National Police Chiefs Council, ADCS and other stakeholders to achieve this.^{xi} The government rejected the possibility of changing the crime recording rules, arguing that the new outcome 21 (welfare referral) already allows sufficient flexibility to the police.

David Lammy MP's review of racial bias in the criminal justice system in England and Wales^{xii}

David Lammy MP was commissioned by the then Prime Minister in January 2016 to lead a review of the criminal justice system in England and Wales to investigate evidence of possible bias against black defendants and other ethnic minorities (the Lammy review). Lord Laming wrote to David Lammy MP in June 2016 highlighting our recommendations that the Lammy review should include specific consideration of the experience of looked after children from minority ethnic groups within the criminal justice system. David Lammy MP confirmed that he would do so in an open letter to the Prime Minister published in November 2016.^{xiii} The final report of the Lammy review is expected in Spring 2017.

Children and Social Work Bill

The Children and Social Work Bill, announced in the Queen's Speech in May 2016 and currently before the House of Commons, presents an opportunity to progress a number of review recommendations. Mark Day, Head of Policy and Communications at the Prison Reform Trust, led in pursuing these on behalf of the Prison Reform Trust and the review during the Bill's passage through the Lords, helping to achieve some important gains.

The Bill introduces into legislation for the first time a description of the principles underlying the corporate parenting duty. Contained within clause 1, these provisions reflect to a large extent the review's recommendations for recognition of the importance of good parenting by the state in order for looked after children and care leavers to reach their full potential, as shown in the following comment made at report stage by the government minister Lord Nash:^{xiv}

The corporate parenting principles and the needs articulated in Clause 1 are about improving the culture and ethos of local authorities so that, as far as possible, children are treated with care and as a good parent would, so that the children do not feel that they are being looked after by an impersonal corporate body.

Following meetings between the review team and Department for Education officials, we are pleased that the government has confirmed that the new statutory guidance supporting the new corporate parenting principles will specifically refer to the duty on local authorities to prevent the unnecessary criminalisation of looked after children. The draft guidance was shared with peers during the passage of the Bill and we understand there will be a public consultation on it early in 2017.

At clause 3, the Bill introduces a new entitlement to advice and support for care leavers. Following representations from the review team and a probing amendment by Lord Ramsbotham, the government tabled amendments to strengthen the duty and to clarify its intentions, making it clear that local authorities cannot dispense with the duty to offer advice and support simply because a young person declines it once. They must continue to make the offer at least yearly as long as the young person has leaving care status. We believe these changes considerably strengthen this new entitlement for care leavers and we are grateful to Darren Coyne of the Care Leavers' Association for his advice.

Further amendments tabled by peers led to statements from the government during the report stage debate, which should help support implementation of some review recommendations.^{xv}

- Lord Ramsbotham tabled an amendment calling for all looked after children to be screened for neurodevelopmental disorders or needs. He withdrew the amendment in response to the government's commitment to amend statutory guidance by listing the specific conditions referred to in the amendment within the criteria for Special Educational Needs and draw practitioners' attention to them. The minister also confirmed that the government would publish on the Children's Homes Quality Standards website the new communication standards being produced by the Royal College of Speech and Language Therapists, in order to improve the recognition of, and the response to, learning disabilities and learning difficulties of looked after children, including speech, language and communication needs.
- Lord Warner tabled an amendment to add a duty of co-operation on local authorities and other agencies in relation to the corporate parenting duties, including clinical commissioning groups and the police. Lord Warner withdrew the amendment in response to the government's statement that it wished to retain clear accountability for local authorities, and that it considered the existing duty in section 10 of the Children Act 2004 for local authorities to 'promote co-operation', as well as the reciprocal duty on partner agencies to co-operate contained in that provision, covered this ground already. The government minister, Lord Nash, commented that section 10 provides a 'robust mandate for inter-agency co-operation' and offers a 'strong lever' for local authorities to achieve co-operation. He added that the new corporate parenting principles will constitute a further lever for this purpose, and confirmed that the statutory guidance underpinning the Bill will emphasise the importance of inter-agency working.
- In response to amendments tabled by peers which sought to require all looked after children to be assessed by a mental health professional, the government amended the corporate parenting principles to make clear on the face of the Bill that local authorities have a duty to promote the 'physical and mental health' of looked after children. The minister stated that the government has established an expert group co-chaired by Alison O'Sullivan to consider the mental health of looked after children, and that the group is engaged in a new care pathway project on which there will be an update in Spring 2017.

The Prison Reform Trust and the review joined others in opposing Clause 29 of the Bill which sought to introduce a controversial new 'power to innovate'. This clause and related provisions were defeated in the Lords but have been reintroduced in revised form in the

Commons. The Prison Reform Trust continues to oppose these provisions and hopes that the government will find other ways to encourage innovation.

B. Our recommendations, progress post-publication and next steps

1. Provide stronger national leadership

Our recommendations

The review recommended that government departments in England and Wales should work together to:

- Commission and publish a concordat on protecting looked after children from criminalisation, to reinforce the statutory obligations of all relevant agencies and highlight the need for joint action
- Set common standards for collection, analysis and publication of data
- Adjust inspection measures
- Ensure information systems for children's services (in England) and social services (in Wales) are converged with those of youth justice services
- Ensure the new 'What Works' body for children's social care in England, and equivalent body in Wales, will disseminate information about leading practice in this area.

Progress post-publication and next steps

The Welsh government has welcomed the review recommendations and indicated its intention to implement them with leadership from the Ministerial Advisory Group on Improving Outcomes for Children. Lord Laming and John Drew attended a meeting of the group on 2 December 2016 to discuss the recommendations of this review and the Welsh government's plans for implementation.

It is helpful that the Taylor and Narey reviews both made similar recommendations to those of this review, for the government to encourage the development and implementation of local joint working protocols between the police, local authorities and care homes in England and Wales, in order to reduce the unnecessary criminalisation of looked after children and young people for minor offences.

Several meetings have been held between the review team, National Police Chiefs Council (NPCC) and UK government officials and ministers to discuss our proposal for a national concordat to set expectations for local joint working, in order to reduce the criminalisation of looked after children. In December, the government confirmed that it will produce such a concordat in 2017, as well as practice guidance, and that it will work with the National Police Chiefs Council, ADCS and other stakeholders to achieve this.^{xvi}

Following this commitment through will require joint working across government departments, which is challenging at national level just as it is locally. Amid many competing priorities for central and local government, ongoing pressure from outside bodies in the voluntary sector and professional bodies such as the NPCC is likely to be critical in achieving progress.

We are therefore delighted that, following the review team's approach, the YJB has agreed to convene a group of interested parties to meet quarterly for at least one year starting in February 2017, to ensure that there is progress in achieving the aims of this review.

It is also welcome that the Howard League for Penal Reform will be beginning a new project in January 2017 aimed at reducing the criminalisation of looked after children, supported by the Esmée Fairbairn Foundation and chaired by Michael Gove. John Drew, secretary to Lord Laming's review, and review panel member Chief Constable Olivia Pinkney have been invited to sit on the new project's advisory group.

We are confident that all these initiatives will build on the work of Lord Laming's review and earlier studies, keeping the unnecessary criminalisation of looked after children high on the agenda and accelerating progress towards change.

Concordat

Officials in the DfE and Home Office have welcomed the review's proposal of a national concordat which builds on some existing protocols. This has been under discussion between the NPCC and Home Office officials as part of the NPCC's longstanding efforts to secure improved, consistent police practice in this area. It has also been the subject of meetings held by the review team with officials and board members in the Youth Justice Board for England and Wales (YJB), and officials in the Welsh Government, Cabinet Office and the Department for Education (DfE). We are delighted that the government has now made a commitment to producing such a concordat in 2017 in consultation with stakeholders.^{xvii}

The Secretary of State for Education has said she would like to meet Lord Laming together with some young review panel members and a meeting date is being arranged at which the concordat will be discussed.

Data

Following the review team's approach, YJB officials have met with DfE colleagues to begin discussions about how the data on numbers of looked after children in custody may be improved. This includes a discussion of the 'data link' project currently underway between the DfE and Ministry of Justice, which is expected to publish some initial findings shortly about the links between education and offending. This work will also include consideration of the experience of looked after children in minority groups.

We expect similar discussions to take place with Welsh Government, to whom much of the responsibility for this data is devolved.

Inspection measures

Following publication of the review, we were pleased that Ofsted immediately issued a comprehensive guidance note to their inspectors setting out the findings and recommendations of the review, as well as organising an online training session (Webinar) in which John Drew participated.

Charlie Taylor recommended in his review that in addition to inspecting local authority children's services, Ofsted (in England) and Estyn and the Care and Social Services Inspectorate Wales (in Wales) should take over the inspection of youth offending services from HMI Probation, with ongoing support from that inspectorate. He proposed that local authorities should be judged on the number of children entering the youth justice system, the number in custody and the reoffending rates of their children, and that there should be a distinct focus within the framework on several areas, including the number of looked after children in the youth justice system, the quality of the services provided to this group and the outcomes they achieve. The government has not yet responded to this recommendation.

A distinct focus on the criminalisation of looked after children would be welcome within inspections of children's services and youth offending services, whichever agency carries out the inspection. This would offer a further incentive for local authorities to look closely at the drivers in their local area for looked after children to become involved with the criminal justice system, and to take action to reduce those numbers.

Spreading good practice

Following the review team's approach, officials in the YJB and DfE have made contact with each other to join up the DfE's developing What Works Centre project with the YJB's youth justice resource hub. The aim is to maximising the opportunities for the new DfE body to spread good practice in reducing the criminalisation of looked after children.

2. Achieve consistent police practice

Our recommendations

We called on the Home Office to:

- Advocate regional police protocols throughout England and Wales, modelled on South East England and Gwent models
- Review the Counting Rules and develop a new 'welfare referral' outcome for the recording of minor offending in children's care homes.
- Work with the DfE to publish a crime recording protocol for incidents in children's care homes.
- Require Police and Crime Commissioners (PCCs) to set clear expectations on the police to work with local authorities on this; and to take account of this when commissioning services to reduce crime locally.

Progress post-publication and next steps

We disseminated our report to all police leads and PCCs. A positive meeting was held with Tony Lloyd (Greater Manchester Mayor and PCC) and a meeting has been requested with Vera Baird QC, chair of the Association of PCCs (APCC). The APCC has disseminated the review findings to all its members. A number of police forces and PCCs have been in touch expressing support and interest.

It is helpful that the Taylor and Narey reviews have made similar recommendations for the police to be allowed discretion in the recording of crimes in children's homes, similar to that in operation in schools. This is a reform that has been pursued over several years by the NPCC and others.

In its response to the Narey review, the government recognised that the police need flexibility in recording incidents to help avoid the unnecessary criminalisation of children in residential care, but argued that a change in the crime recording rules is not necessary as the police already have sufficient flexibility:^{xviii}

In December 2015, Ministers agreed to the creation of a new crime outcome ('outcome 21') for cases where police officers record a crime but use their discretion to judge that formal action is not in the public interest. This gives officers the discretion necessary to deal with incidents in a way that avoids unnecessarily criminalising children.

The government has committed to working with the NPCC 'to highlight and clarify to frontline officers the existing discretion available to them' and states that the guidance provided by

the Disclosure and Barring Service (DBS) is being reviewed *'to ensure that crimes allocated this new outcome are only subject to disclosure later in life in exceptional circumstances'*.

While this does not go as far as we would have liked, it does represent substantial progress. Part of the ongoing work will require establishing a clear understanding of what would constitute 'exceptional circumstances' that might lead to a disclosure by the DBS.

3. Provide early support for children and families at risk

Our recommendation

The review recommended that the proposed English and Welsh concordats should explicitly recognise the important role of early support and commit to work with local government to sustain and develop this

Progress post-publication and next steps

We have offered advice and commentary to the UK government on this point and await the ministers' response. In Wales these matters are being taken forward as a part of the work programme of the Ministerial Advisory Group for 'Improving Outcomes for Children'.

4. Strengthen local authority leadership

Our recommendations

We proposed that statutory guidance should be amended to:

- Make clear that local authorities should raise awareness amongst local partner agencies and others about the needs, circumstances and characteristics of looked after children and tackle stigma.
- Require local authorities to hold regular, senior level, strategic meetings with partner agencies.
- Describe activities that local authorities must routinely carry out, including (a) regular reports to senior staff and lead members and (b) close working relationships between local authorities and criminal justice agencies.
- Require local authorities to (a) recruit, train and support young adults as peer mentors; and (b) carry out a review when any looked after child has three or more placement moves within 12 months.
- Incorporate (in England) the requirements specified in the Welsh code of practice in relation to out of authority placements of children in Wales.

Progress post-publication and next steps

Following the review team's approach, DfE officials have confirmed they are committed to reviewing the statutory guidance to the Children Act 1989 as set out in the guidance (which states that a review is scheduled for April 2017) and that they would like to work with the review team on those amendments. The government's commitment to producing new statutory guidance was confirmed in its response to the Narey review.^{xix} John Drew will continue to pursue discussions with the DfE in the new year.

YJB officials have contacted the DfE to offer their support in making reviewing and amending as appropriate the guidance relating to looked after children and offending. Their first meeting has now taken place.

In Wales these matters are being taken forward as a part of the work programme of the Ministerial Advisory Group for 'Improving Outcomes for Children'.

5. Improve joint working between children's services and criminal justice agencies

Our recommendations

We proposed that statutory guidance should be amended to:

- Require local authorities to hold regular panel meetings with police and other partners to review individual cases to promote diversion, with joint decision making where possible.
- Require local authorities to put in place resources to ensure carers in all placements can support children's social development and respond to challenging behaviour without involving the police, e.g. through restorative practice.
- Require all children's homes to implement protocols with police, in consultation with children's social care services, and for monitoring by the director of children's services and lead member.
- Require local authorities to notify criminal justice agencies promptly when a looked after child comes into contact with the criminal justice system.
- Require local authorities to ensure within a reasonable period of time that a looked after child who is arrested has support at the police station from an appropriate adult who knows them, has no conflict of interest and understands their role and is able to carry it out.
- Require social workers to attend court where a looked after child is due to appear, with another adult who knows the child where the social worker does not know him/her.
- Set short time limits within which information about a looked after child must be communicated to other agencies at each stage of the criminal justice process.
- Increase the time limit from 10 to 21 days before release, for resettlement planning to be completed for looked after children; notification to the DCS where this is not achieved.
- Require local authorities to make every effort to facilitate family support for child at all stages of the criminal justice process where this is safe and in the child's best interests and what they want.

Progress post-publication and next steps

Following the review team's approach, DfE officials have confirmed they are committed to reviewing the statutory guidance to the Children Act 1989 as set out in the guidance (which states that a review is scheduled for April 2017) and that they would like to work with the review team on those amendments. The government's commitment to producing new statutory guidance was confirmed in its response to the Narey review.^{xx} John Drew will continue to pursue discussions with the DfE in the new year.

YJB officials have contacted the DfE to offer their support in making reviewing and amending as appropriate the guidance relating to looked after children and offending. Their first meeting has now taken place.

In Wales these matters are being taken forward as a part of the work programme of the Ministerial Advisory Group for 'Improving Outcomes for Children'.

6. Recognise the important role of good parenting by the state

Our recommendations

The review recommended that the Welsh and English concordats should explicitly recognise the important role of good parenting by the state in protecting children and young people in care against criminalisation. This should include reinforcing the need for local authorities to take the steps detailed in recommendations 6.1 to 6.9 (see [summary report](#)^{xxi}). Many of these largely reflect those set out under recommendations 4 and 5, summarised above. Further, the review recommended that:

- Local authorities should ensure that looked after children and young people are effectively supported to thrive in their education and other constructive activities, including through training for all teachers on the additional needs that looked after children can have, as part of their core teacher training.
- In relation to the mental health and emotional wellbeing of looked after children:
 - All children should be assessed by a mental health professional on entering care.
 - There should be a presumption for looked after children to have first priority for mental health services until they have been assessed, then determine priority based on clinical need. This should be an essential element of CAMHS contracts and monitoring process.

Progress post-publication and next steps

We have offered advice and commentary to the UK government on what should be contained in the national concordat and await the ministers' response.

In England, clause 1 of the Children and Social Work Bill currently before Parliament introduces into legislation for the first time the principles underlying the corporate parenting duty. This reflects to a large extent the principles underlying this recommendation by the review. In response to approaches by the review team and concerns raised by peers during the passage of the Bill through the House of Lords, the DfE has committed to reflecting the need to reduce criminalisation of looked after children in the guidance to the Bill. We expect there to be a consultation on the new draft guidance early in 2017.

Clause 1 of the Children and Social Work Bill includes specific reference to the need for corporate parenting bodies to promote the 'physical and mental health' of looked after children. During the report stage debate in the House of Lords, the government minister confirmed that an expert group on the mental health of looked after children will publish initial findings in Spring 2017 regarding a new care pathway focusing on the mental health and emotional wellbeing of looked after children.

In Wales the Ministerial Advisory Group has made an explicit commitment to 'revise and extend Corporate Parenting guidance' and the work to do this is in hand with an ambition that this be completed in 2017.

7. Respond to the particular needs of looked after children and young people in minority groups and those with additional needs

Our recommendations

We proposed that:

- Data on looked after children's involvement with the criminal justice system should be regularly published and disaggregated on the basis of ethnicity, faith, gender and disability and, where applicable, type of custodial establishment
- The Lammy review should (a) consider the experience of looked after children from minority ethnic backgrounds in the criminal justice system, including why they are over represented in custody; and (b) analyse the available data and make recommendations as to gaps to be filled.
- In their local protocols lead local authority members for children's and social services, corporate parenting boards and Chief Constables should include a specific focus on ensuring that treatment of children and young people in care is sensitive to:
 - Ethnicity
 - Faith
 - Gender
 - Any additional needs due to developmental disabilities and disorders, learning disabilities, learning difficulties and speech, language and communication needs (including training for all frontline staff; prompt and appropriate information sharing; and access to support and specialist services as required);
 - Immigration status (including meeting mental health needs of unaccompanied asylum seeking children; supporting children to resolve any outstanding immigration matters; and ensuring looked after children and care leavers who face deportation proceedings due to criminality are legally represented and full information is provided to the tribunal about their background); and
 - Status as a victim of trafficking, including ensuring children are identified as victims at the earliest possible stage and protected and (i) ensuring the police cover trafficking in the custody record/booking in process and crime reports and share information with other forces; (ii) ensuring staff in all agencies receive training on how to identify and safeguard potential child victims of trafficking; (iii) the Home Office, Ministry of Justice and YJB should work together to produce guidance on how to identify victims of trafficking and how to safeguard possible victims in the secure estate.

Progress post-publication and next steps

The YJB has committed to working with the DfE and Welsh government to consider how data on looked after children in the criminal justice system who are in minority groups can be improved.

It is helpful that David Lammy MP has confirmed he will include specific consideration of looked after children in minority ethnic groups in his final report.

We understand that considerable thought is being put into the YJB's response regarding foreign national and trafficked children.

The review team has put ECPAT UK^{xxii} in contact with the YJB's head of placements and safeguarding with a view to ensuring that the YJB is represented on the Home Office's advisory group working on new guidance for criminal justice practitioners in recognising and appropriately responding to children and young people who are potential victims of trafficking. They are due to meet in January to discuss how the YJB can get involved in moving this work forward.

We have raised with the YJB the need for particular support for foreign national looked after children involved with the criminal justice system and we are in contact with the Refugee Children's Consortium, which we hope may also be able to help take this agenda forward.

There is no specific progress to report regarding the treatment of looked after children in the criminal justice system in connection with their faith or gender, other than the commitments from the YJB and DfE to look more closely at their data on looked after children in the criminal justice system, including in relation to minority groups. Progress regarding looked after children with developmental disabilities and disorders, learning disabilities, learning difficulties and speech, language and communication needs, is limited to the commitments made by government at the Lords report stage of the Children and Social Work Bill in response to Lord Ramsbotham's amendment and briefings from the Royal College of Speech and Language Therapists. It would be helpful for all these points to be picked up by the group of interested parties being convened by the YJB, for consideration of next steps.

8. Ensure looked after children are fairly treated and properly supported by criminal justice agencies

Our recommendations

- All criminal justice agencies must work closely with children's social care and social services and ensure they know when they are working with a child in care, understand their vulnerabilities and take a strategic and practical approach to ensuring they are fairly treated and well supported through the criminal justice process
- No police interview, charge or out of court disposal without knowing whether the child is looked after and, if so, consulting their parent local authority; requirement to explain to court where this has not been done
- The Crown Prosecution Service (CPS) should review operation of its guidance to ensure it is being followed consistently and consider extending the guidance to cover all looked after children
- Where CPS guidance appears not to have been followed, magistrates and judges should be able to stand a case down to allow conference outside courtroom to try and resolve the matter without formal proceedings
- Custody should only be used for any child where there is no alternative. Further:
 - Where there is no alternative to custody, children should be placed in small, local units designed to promote psychological and emotional wellbeing
 - A thoroughgoing review of custodial provision to ensure the needs of looked after children are fully addressed within custody.

Progress post-publication and next steps

We have offered advice and commentary to the government on these points and await the ministers' response.

The Magistrates' Association has welcomed the review findings and is conducting ongoing awareness raising amongst its members of the implications for magistrates who have looked after children and young people appearing before them. The YJB is taking action in a number of areas in response to the review and the NPCC continues to lead in seeking improvements to police practice, as detailed elsewhere in this report. Through its Care Leavers' Champion and regional champions, and with support from the Care Leavers' Association, NOMS has started to make progress towards better support for care leavers in the criminal justice system. The APCC and the CPS have been helpful during the review process and have indicated their support for the review's aims.

Following the over-arching recommendations of the Taylor review and the Narey review echoing the need for improved joint working to protect looked after children from criminalisation, as well as the detailed recommendations of this review and the government's confirmation that it will produce a national concordat to reduce further the criminalisation of looked after children, it would now be helpful to see an analysis by each of the relevant national criminal justice agencies and professional bodies detailing what action they now need to take in order to improve their agencies' practices in relation to looked after children and care leavers.

9. Strengthen support from children's services for looked after children who are going through criminal justice processes

Our recommendations

We proposed that the concordats in England and Wales should reinforce the responsibility of children's services to work closely with youth justice services in order to:

- Support looked after children to be diverted from the criminal justice system wherever possible, including: (a) ensuring court proceedings are avoided; (b) ensuring children are eligible for bail, and able to comply with bail conditions; and (c) ensuring where a child is convicted, that the court is presented with robust community alternatives to custody.
- Ensure that any child remanded or sentenced to custody is well supported while in custody and that there is effective planning for the child's resettlement.

Progress post-publication and next steps

We have offered advice and commentary to the government on these points and await the ministers' response.

10. Improve the rehabilitation of looked after children who have offended and support young people leaving care.

Our recommendations

- Where any child is convicted of a minor offence, consideration should be given to wiping the rehabilitation period immediately or, where this is not possible, shortening it and expunging the offence from the child's record at the age of 18
- 'Staying Put' and 'When I am ready' arrangements should be extended beyond children in foster care to those leaving residential care and transitional accommodation placements

- Support for care leavers who are not in education or training should be extended from 21 to 25 years.

Progress and next steps

Rehabilitation of offences: There has been no government response either to our proposals or to those made in the Taylor review, which called for significantly shorter rehabilitation periods to be applied than currently for children with cautions and convictions, and urged the Ministry of Justice to work closely with the Home Office to consider the recommendations of the House of Commons justice committee's current [inquiry](#) into the disclosure of youth criminal records.^{xxiii} The Prison Reform Trust has made a [written submission](#) to that inquiry and has endorsed the detailed [submission by the Standing Committee for Youth Justice](#).

Extension of 'Staying Put' and 'When I am ready' arrangements: In England, the government has committed to introducing 'Staying Close' arrangements for children leaving residential care, as recommended in the Narey review following an NCB study which considered this amongst other options for children leaving residential care.^{xxiv} The arrangements will enable young people to live independently, in a location close to their children's home with ongoing support from that home.^{xxv} In Wales these matters are being taken forward as a part of the work programme of the Ministerial Advisory Group for 'Improving Outcomes for Children'. A Task and Finish Group on Children's Residential Care has been set up which is due to meet for the first time in January, when it will be identifying key issues and outcomes, and designing a work programme. Extending the 'When I am Ready' principles to children in residential care in Wales is one of the areas the group will be expected to progress.

Extending support for NEET care leavers to 25 years: In England, the government has confirmed that it will extend support for all care leavers to age 25, so that all care leavers will have the benefit of a personal adviser, and the government will provide additional funding for local authorities to implement this new entitlement. A new requirement on local authorities to publish their 'local offer' for care leavers should lead to greater clarity for both young people and professionals about their entitlements.^{xxvi} Provision in the Children and Social Work Bill for additional advice and support for care leavers is also welcome (see above). In Wales these matters would fall within the remit of the Ministerial Advisory Group for 'Improving Outcomes for Children'.

C. Local consultancy

The review team wrote to the chief executives of every local authority in England and Wales with statutory responsibility for looked after children in October, offering a limited consultancy to support taking forward the recommendations of the review in their local area. Seventeen local areas have responded, although one has subsequently withdrawn. Work is currently underway developing proposals for work in a first tranche of eight projects.

The nature of each project is confidential to the local authority and their partners, unless they should choose to publish the outcomes. We plan to aggregate the learning from this work in an anonymised report towards the end of 2017. This work is being led by John Drew.

D. Annex - Review launch and activities post-publication

Review launch

The review's findings and recommendations were published in the form of a summary report on 23 May 2016, receiving widespread media coverage. The BBC broadcast the report across nearly 60 stations/channels, including appearances by Lord Laming and Chief Constable Olivia Pinkney on the Today programme, and Lord Laming on BBC Breakfast and on BBC 5 Live with Ben Byrne of Sussex County Council. There was a prominent article and leader in the Times on the day of the launch, as well as coverage in the Mail online, trade press and positive comments on social media outlets.

The report received an immediate, overwhelmingly positive response from the care and criminal justice sectors. Lord Laming and the Prison Reform Trust's then director, Juliet Lyon, had a number of positive, informal conversations with ministers and senior government advisers.

Activities post-publication

Speaking engagements

- | | |
|----------------|--|
| 24 May 2016 | Meeting of the All-Party Parliamentary Group on Penal Affairs: Lord Laming spoke to parliamentarians and colleagues about his findings at this well attended meeting of the APPG. He was accompanied on the platform by Juliet Lyon and a young review panel member, Henrietta, who took time out from her last day of university to speak about her own personal experiences of care and the criminal justice system and what the review means to her. |
| 9 June 2016 | National Children's Commissioning and Contracting Conference, Derbyshire: John Drew spoke about the review findings to commissioners and independent providers of residential children's care. |
| 16 June 2016 | Children and young people in care - Delivering the best residential homes, social work and outcomes, Policy UK Forum conference, London: Juliet Lyon spoke to 70 delegates about the review findings. |
| 28 June 2016 | Looked after children and the youth justice system, University of Bristol: Katy Swaine Williams spoke about the review findings to an audience of 50 academics and practitioners, alongside review panel members Dr Jo Staines of the University of Bristol and Darren Coyne of the Care Leavers' Association. |
| 8 July 2016 | Association of Directors of Children's Services annual conference, Manchester: Juliet Lyon spoke to 250 delegates about the review findings and messages about the care system and children and young people in care. |
| September 2016 | Care Leavers' Association – Care Leavers, Looked After Children and the Criminal Justice System - pan-London roundtable: Mark Day attended for the Prison Reform Trust and Transition 2 Adulthood Alliance. |

- 8 September 2016 **Lammy Review conference on trust in the criminal justice system, London:** Peter Dawson spoke on behalf of the Prison Reform Trust and the review.
- 13 September 2016 **Young People in the Justice System, Policy UK Forum conference, London:** John Drew spoke about the review findings.
- 5 October 2016 **National Police Chiefs Council meeting:** John Drew spoke about the review findings at the NPCC's quarterly meeting of regional representatives for children and young people.
- 19 October 2016 **University of Winchester:** John Drew gave a masterclass to 150-200 social workers in training about looked after children and offending.
- 29 October 2016 **Magistrates' Association AGM and conference, Chester:** 70 copies of the report were disseminated to delegates.
- 22 Nov 2016 **Restorative Justice Council annual conference, London:** Lord Laming spoke about the review findings to 100 restorative practitioners from across England and Wales, as well as researchers, commissioners and others involved in the delivery of restorative practice about the review findings.
- 12 January 2017 **National Police Chiefs Council:** Lord Laming and Henrietta (a young review panel member) have been invited to speak to 150 delegates at the NPCC's annual conference on children and young people about the police response to looked after children and care leavers.
- March 2017 **University of Suffolk:** Lord Laming has been invited to speak about the review findings at a regional conference hosted by the University of Suffolk.
- 3 July 2017 **CoramBAAF Health Group:** Lord Laming has been invited to speak at this conference in Birmingham about the review findings.
- Media*
- August 2016 **Magistrate magazine (circulation 18,000):** Article 'In Care, Out of Trouble' by John Bache JP, Deputy Chairman of the Magistrates' Association and review panel member.
- November 2016 **Association of YOT Managers magazine:** Circulation - all members and stakeholders; article by John Drew about looked after children and criminalisation.
- July 2017 **Safer Communities Journal, Manchester Metropolitan University:** Katy Swaine Williams been invited to submit an article about the review for this special edition of the journal, guest edited by Anne-Marie Day of Salford University and focusing on looked after children and criminalisation. Articles are also being contributed by Dr Claire Fitzgerald, Dr Julie Shaw and Dr Jo Staines.

Correspondence and meetings

- 20 May 2016 Embargoed copies of the report were sent to the then Prime Minister, relevant ministers, Isabelle Trowler (Chief Social Worker for Children and Families, England), Sir Martin Narey (lead – review of residential children’s care, England) and Charlie Taylor (lead – review of youth justice), as well as review panel members and a small number of submitters to the review who were quoted within the summary report.
- May 2016 Lord Laming held positive meetings with Isabelle Trowler, Edward Timpson (then Minister for Children and Families) and a minister in the Department for Communities and Local Government.
- 28 June 2016 The review report was submitted to David Lammy MP’s review of the experience of black, Asian and other minority ethnic people in the criminal justice system. Lord Laming has been invited to meet with the review’s advisory group (date to be confirmed) to discuss the implementation of the review’s findings in relation to looked after children from minority ethnic groups.
- 7 July 2016 A review panel meeting was held at which Claire Fielder, Chief Executive of the Sentencing Council, heard from review panel members about their views on the consultation on sentencing guidelines for young people, with a specific focus on the experience of looked after children and young people. The PRT submitted a response to the Sentencing Council’s consultation in August 2016.
- 19 July 2016 Juliet Lyon wrote to Justine Greening MP, Secretary of State for Education, to congratulate her on her appointment and with a copy of the review report. The secretary of state has since confirmed that she would like to meet Lord Laming together with young review panel members, but that her diary is currently very full. We hope to be able to arrange this meeting early in 2017.
- 25 July 2016 Juliet Lyon wrote to Ben Gummer MP, Minister for the Cabinet Office and Paymaster General, to congratulate him on his appointment and with a copy of the review report.
- 31 August 2016 Lord Laming wrote to the Prime Minister, Theresa May MP, with a copy of the review report, congratulating her on her appointment and asking to meet her together with young review panel members. Copies of his letter were sent with tailored covering letters to the following ministers:
- Amber Rudd MP, Home Secretary
 - Liz Truss MP, Secretary of State for Justice
 - Justine Greening MP, Secretary of State for Education
 - Sajid Javid MP, Secretary of State for Communities and Local Government
 - Jeremy Hunt MP, Secretary of State for Health

- Edward Timpson MP, Minister for Vulnerable Children and Families

The Prime Minister replied in November, expressing her support for the review's work and explaining she is not able to meet due to her diary commitments, but that she has passed on the report and Lord Laming's invitation to the Secretary of State for Justice, Secretary of State for Education and Secretary of State for Communities and Local Government. Lord Laming has since written follow up letters to all those ministers and the Home Secretary seeking a meeting; replies are awaited.

- 14 September 2016 Katy Swaine Williams wrote to Sheila Eaton asking whether the National Council of Women Great Britain (NCW) has yet written to ministers with a copy of the resolution they adopted last October calling on the UK government to take steps to reduce the over-representation of looked after children in the criminal justice system.
- 15 September 2016 Tony Lloyd, Mayor and Police and Crime Commissioner of Greater Manchester and his colleague Alison Connelly met with Lord Laming and Katy Swaine Williams and agreed to keep in contact regarding Greater Manchester PCC's data analysis project, which includes a detailed look at the criminalisation of looked after children as well as placements far from home.
- 29 September 2016 We wrote by email or post to all those who made written submissions to the review, thanking them for their contribution, providing a link to the report and offering to send a hard copy of the summary report. The email also provided an update on the progress of the review and information about the PRT's offer of free consultancy. A handful of replies were received, including positive feedback about the review, requests for hard copies of the report and some offers to help in the provision of free consultancy.
- 6 October 2016 Letters were sent by post and email from Lord Laming to the following individuals, enclosing a copy of the review report and offering free consultancy from PRT (provided by John Drew) on a first come, first served basis, to help local leaders tackle the over representation of looked after children in the criminal justice system:
- All local authority chief executives
 - Police and crime commissioners
 - Chief constables
 - Chairs of clinical commissioning groups (England)
 - Chairs of local health boards (Wales)
- At the time of writing, 17 expressions of interest have been received from local authorities and police forces across England (see section C above).
- 18 October 2016 Review panel members Chief Constable Olivia Pinkney and Caroline Adams of the NPCC met with Edward Timpson MP, now Minister for

- Vulnerable Children, to discuss the possible adoption of a concordat, jointly led by the Home Office and Department for Education, governing police practice in relation to children in residential care.
- 20 October 2016 Katy Swaine Williams met Gracia McGrath of Chance UK to discuss how we might progress the review's recommendations regarding peer mentoring and to hear about their early intervention work.
- 1 November 2016 Katy Swaine Williams met Mark Blake of Black Training and Enterprise Group (BTEG) to discuss how the review's recommendations regarding children and young people from minority ethnic groups can be taken forward.
- 2 November 2016 John Drew met Shazia Hussain and Helen White, Department for Education, to discuss our proposed amendments to statutory guidance and concordat.
- Lord Laming and Katy Swaine Williams met Kate Davies, Deputy Director at the Economic and Domestic Affairs Secretariat, at the request of the EDS who contacted us on behalf of Sir Jeremy Heywood. Kate Davies expressed her support for the review's proposal for a concordat and offered to help where she could.
- 3 November 2016 Katy Swaine Williams and John Drew met members of the Youth Justice Board to discuss how the YJB could take forward a number of review recommendations, including improvement in the collection and publication of data, amendments to statutory guidance, spreading good practice and improving the response to foreign national and/or trafficked looked after children (see Section B above).
- 17 November 2016 Katy Swaine Williams met representatives of the youth committee of the Magistrates' Association to discuss progress towards implementation of the review recommendations. The Magistrates' Association expressed their support for the review's findings, explained the work they had already done to raise awareness of it amongst magistrates and offered to do further awareness raising.
- 2 December 2016 Lord Laming and John Drew were invited by Carl Sargeant AM/AC, Cabinet Secretary for Communities and Children in Wales, to speak at a meeting of the newly reconvened Welsh strategic steering group for Improving Outcomes for Children on 2 December. This steering group is intended to provide the national leadership recommended in the review report.

**Prison Reform Trust
January 2017**

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- ⁱ [Table 4, Department for Education \(2015\) Outcomes for children looked after by local authorities, as at 31 March 2014, London: DfE](#)
- ⁱⁱ [Department for Education \(2013\) Children looked after in England year ending 31 March 2013, London: DfE and Office for National Statistics \(2013\) Population estimates total persons for England and Wales and regions Mid-1971 to Mid-2012, London: ONS](#)
- ⁱⁱⁱ [Office for National Statistics \(2013\) Population estimates total persons for England and Wales and regions Mid-1971 to Mid-2012, London: ONS](#)
- ^{iv} [HM Inspectorate of Prisons \(2016\) Children in Custody 2015-16. An analysis of 12-18 year-olds' perceptions of their experiences in secure training centres and young offender institutions, London: HMIP](#)
- ^v [Prison Reform Trust \(2016\) In Care, Out of Trouble. How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system - Summary of findings and recommendations, London: PRT](#)
- ^{vi} [Staines, J. \(2016\) Risk, adverse influence and criminalisation. Understanding the over-representation of looked after children in the youth justice system, London: PRT](#)
- ^{vii} [Prison Reform Trust \(2016\) In Care, Out of Trouble. How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system, London: PRT](#)
- ^{viii} [Ministry of Justice \(2016\) Review of the Youth Justice System in England and Wales by Charlie Taylor, London: TSO; Department for Education \(2016\) Residential care in England. Report of Sir Martin Narey's independent review of children's residential care, London: DfE and Open letter from David Lammy MP to the Prime Minister dated 16 November 2016](#)
- ^{ix} [Ministry of Justice \(2016\) Review of the Youth Justice System in England and Wales by Charlie Taylor, London: TSO](#)
- ^x [Department for Education \(2016\) Residential care in England. Report of Sir Martin Narey's independent review of children's residential care, London: DfE](#)
- ^{xi} [Department for Education \(2016\) Government response to Sir Martin Narey's Independent Review of Residential Care, London: DfE](#)
- ^{xii} [Open letter from David Lammy MP to the Prime Minister dated 16 November 2016](#)
- ^{xiii} [Open letter from David Lammy MP to the Prime Minister dated 16 November 2016](#)
- ^{xiv} Hansard, 18 October 2016: [https://hansard.parliament.uk/lords/2016-10-18/debates/F87D90E7-21C7-4F40-A6A9-63D754DB02AE/ChildrenAndSocialWorkBill\(HL\)](https://hansard.parliament.uk/lords/2016-10-18/debates/F87D90E7-21C7-4F40-A6A9-63D754DB02AE/ChildrenAndSocialWorkBill(HL))
- ^{xv} Hansard, 18 October 2016: [https://hansard.parliament.uk/lords/2016-10-18/debates/F87D90E7-21C7-4F40-A6A9-63D754DB02AE/ChildrenAndSocialWorkBill\(HL\)](https://hansard.parliament.uk/lords/2016-10-18/debates/F87D90E7-21C7-4F40-A6A9-63D754DB02AE/ChildrenAndSocialWorkBill(HL))
- ^{xvi} [Department for Education \(2016\) Government response to Sir Martin Narey's Independent Review of Residential Care, London: DfE](#)
- ^{xvii} [Department for Education \(2016\) Government response to Sir Martin Narey's Independent Review of Residential Care, London: DfE](#)
- ^{xviii} [Department for Education \(2016\) Government response to Sir Martin Narey's Independent Review of Residential Care, London: DfE](#)
- ^{xix} [Department for Education \(2016\) Government response to Sir Martin Narey's Independent Review of Residential Care, London: DfE](#)
- ^{xx} [Department for Education \(2016\) Government response to Sir Martin Narey's Independent Review of Residential Care, London: DfE](#)
- ^{xxi} [Prison Reform Trust \(2016\) In Care, Out of Trouble. How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system - Summary of findings and recommendations, London: PRT](#)
- ^{xxii} [ECPAT UK is a leading children's rights organisation campaigning against child trafficking and exploitation in the UK and on its international aspects.](#)
- ^{xxiii} [House of Commons justice committee inquiry into the disclosure of youth criminal records, 2016-](#)
- 17**
- ^{xxiv} [Department for Education \(2016\) Residential care in England. Report of Sir Martin Narey's independent review of children's residential care, London: DfE](#)
- ^{xxv} [Department for Education \(2016\) Putting children first. Delivering our vision for excellent children's social care, London: DfE and HM Government \(2016\) Keep on caring. Supporting young people from care to independence, London: TSO](#)
- ^{xxvi} [HM Government \(2016\) Keep on caring. Supporting young people from care to independence, London: TSO](#)