

# **Safeguards for vulnerable children**

**A companion volume is also available**

**Progress on safeguards for children living away from home: a review of actions since the  
*People Like Us* report**

*Marian Stuart and Catherine Baines*

# **Safeguards for vulnerable children**

**Three studies on abusers, disabled children and children in prison**

**Marian Stuart and Catherine Baines**



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# Foreword

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The companion volume to this report, *Progress on Safeguards for Children Living away from Home*, dealt comprehensively with progress since 1997 in safeguarding children who live away from home. Some issues, however, produced so much information, and were of such intrinsic importance, that more detailed discussion in a second report was justified. This volume therefore presents case studies on abusers, on disabled children, and on children and young people in prison.

The chapter on abusers concentrates on those who abuse children sexually. The nature of this complex problem is changing so quickly that it still outruns the administrative, professional and judicial systems established to deal with it. Finding answers is not helped by extreme reactions to its manifestations, ranging from vengeful hysteria to blank denial. The dispassionate analysis and constructive recommendations contained within this report carry matters forward in a way that protects the safety and promotes the welfare of abused children.

Disabled children are a growing minority within our child population. They are more likely than other children to be abused, physically and sexually. There is widespread resistance to confronting this reality, as if the disability conferred some magical protection instead of increasing the

child's vulnerability. Even agencies charged with child protection have not always recognised the increased vulnerability of these children and the need to adapt process and practice to their particular needs.

In 1991, I described the reduction in the number of juveniles in prison establishments to 572 as 'one of the success stories of the last decade'. Only four years later that number had risen to 1,680. I called that, in *People Like Us*, 'a serious failure in public policy which should be put right as quickly as possible'. By 2002, the figure had reached 2,888, in spite of the representations of Chief Inspectors of Prisons, the Howard League and every other responsible body that became involved. The report acknowledges the efforts of the Youth Justice Board, and of the Prison Service to reduce the incidence of suicide, self-harm and bullying. Prison remains, however, an unsafe place for children. One cannot feel confident that a Prison Service struggling to cope with vast increases in its overall population will be able to make it safe. The real culprits here are the populist anti-crime policies that major on demonising young offenders and encourage punitive sentencing.

Sir William Utting  
August 2004

# Introduction

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This is the second report resulting from our follow-up of *People Like Us*. The companion report *Progress on Safeguards for Children Living away from Home: A Review of Actions since the People Like Us Report* – focused on what has happened on the recommendations made in the report. This deals in more detail with three areas that stood out as needing more analysis than was possible in a single report covering a wide range of issues. The matters dealt with here are important because they address:

- abusers: the major reason why robust measures and constant vigilance are needed in order to safeguard children
- two particularly vulnerable groups of children and young people where safeguards have not yet progressed as far as they have for other vulnerable groups – disabled children and children in prison.

The work for both reports was carried out from June 2002 to May 2004 using the same methodology.

Two of the other very vulnerable groups we identified are worthy of similar study:

- children who spend significant periods in health settings, particularly those with mental-health problems
- children with emotional and behavioural difficulties.

However, not enough work has so far been done to establish the characteristics of these children, together with information about the services they are receiving and their needs, to support an analysis of this kind. We have recommended that further information should be obtained about these groups and that safeguards should be an integral part of the policies developed to meet their needs.

This report draws on relevant reports, research and other publications and information provided by individuals with expertise in the areas covered. We are very grateful to all those who contributed to and helped us with our work.

# 1 Abusers

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## 1.1 Introduction

The Summary of *People Like Us* (1) said:

*The Review was precipitated by the past activities of sexually and physically abusive terrorists in children's homes. Such offenders may be a small proportion of those who harm children, but they create havoc with their lives. A single perpetrator is likely in a lifetime's career to abuse hundreds of children, who suffer pain, humiliation and incur permanent emotional damage.*

*Becoming associated with residential work as an employee or volunteer provides the abuser with a captive group of vulnerable children. Entrapping them involves deceiving and disarming adults also. Abusers may be good at their jobs, winning respect, affection or fear from their colleagues and admiration from the parents whose children they corrupt. They are adept at avoiding detection and disciplinary or criminal charges – in which they are inadvertently assisted by the assumptions and values of our social institutions. They are very dangerous people.*

*It is important in the first place to keep them out of work with children and, secondly, to investigate carefully any suspicions that arise about members of staff; even the best organisations are not immune to infiltration by determined abusers.*

*Below this level are large numbers of adults who fall into abusive behaviour in circumstances ranging from personal weakness to the influence of a malignant institutional culture.*

*Finally, there are children who abuse, who present a serious danger to the safety of other children ...*

*The experience of the Review has seemed at times a crash course in human (predominantly male) wickedness and in the fallibility of social institutions.*

Since then, as *Progress on Safeguards for Children Living away from Home* shows, a considerable amount of action has been taken to improve the protection of children from those who seek to abuse them. Action has also been taken to tackle the main source of harm, abusers themselves, but there has been less success in dealing with this. Chapter 7 on abusers recommended the following.

### **Recommendation 22**

The Government should fund a major expansion of treatment for those who abuse children – men, women and young abusers. Priority should be given to providing early treatment for both male and female young abusers. (Home Office [HO] and the Department of Health [DH])

### **Recommendation 23**

The Government should fund a national expansion of preventative schemes, on the lines of *Stop it Now!*, to provide help and advice for those who are abusing children, or fear that they may, and for those who suspect others are abusing or being abused. (Home Office to take lead responsibility)

## 1.2 What is known about abuse

During the course of the Review leading up to *People Like Us* (1), the Home Office published results of research on rates of sexual offending against children,<sup>1</sup> which showed that, in 1993, 110,000 men aged over 20 had convictions for a sexual offence against a child. That equates to one in 150 men. This did not include figures for rape, since data on the age of rape victims had not been collected at that stage. Subsequent work for the Code of Practice on Foster Care showed that, once figures for rape are included, the ratio becomes about one in 140 men over 20.<sup>2</sup>

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<sup>1</sup> Peter Marshall, *The Prevalence of Convictions for Sexual Offending*, Research Findings No. 55, Home Office, 1997.

<sup>2</sup> Department of Health, June 1999.

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Convictions are a very poor measure of sexually abusive behaviour for many reasons. It is important to remember that:

- conviction rates for sexual offences against children are low and have been declining
- victim studies indicate that, while the majority of sexual abuse of children is by adult males, a significant proportion is committed by other children and young people, and by women
- it is recognised that some male victims of child sexual abuse are at increased risk of going on to perpetrate abuse.

Home Office statistics show 1.6 per cent of those convicted and cautioned in 2001 were females (compared with 0.5 per cent in 1996).

In *Female Sexual Abuse of Children (2)*, Michele Elliott sets out the reasons why society does not want to acknowledge that women sexually abuse children. These include the following.

- Female sexual abuse of children is more threatening than male abuse, as it undermines the feeling about how women should relate to children.
- It has taken years for people to accept that children are sexually abused and abuse has been firmly placed in the context of male power. (However, in 75 per cent of the 800 cases Michele Elliott has on file from adult survivors, the female offender not only acted alone, but there was no male present or involved.)
- People find it difficult to understand how a woman could abuse – after all, she has no penis! Abuse is often put in the context of rape, rather than touching or other offences.
- When female survivors tell their experience of female abusers, they are often asked if

they are sure they haven't misunderstood normal parenting (i.e. putting cream on the vagina – a common ploy to cover abuse).

- When male survivors tell, they are told how lucky they were to be 'initiated' by an older woman (female abuse of boys is still reported as 'an affair or seduction' instead of abuse).
- Representative statistics on female abuse are not available – so we are in the same situation we were in 20 years ago when male abuse of children was thought to be rare because we had so few reported cases.

Because of these and other reasons, the extent of female abuse remains unknown, and Elliott believes we are not sending out a message for people to tell if they have been abused by women and not protecting children against the possibility that it might be a woman who abuses them.

Sheila Brotherston, Lucy Faithfull Foundation (LFF) says juries have difficulty understanding that abuse by women is a real possibility. As part of a National Probation Directorate funded project, the Foundation has worked with the AIM project on the prevalence of young women engaging in sexually harmful behaviour within the Greater Manchester area. The emerging findings include:

- lack of awareness within agencies of young women being capable of sexually harmful behaviour
- no consistency in response to the behaviour
- lack of awareness and understanding of the child protection needs of the young women and future potential victims
- the young women's abusive behaviour within residential settings being minimised or ignored
- lack of equality in response by the criminal justice system (some young women have

been treated excessively in comparison with young males; the behaviour of others has not been regarded as criminal).

Sexual abuse by other children and young people is a serious issue and accounts for a significant proportion of the problem. Estimates vary from 25 to 40 per cent. The NSPCC report, *'I think I might need some more help with this problem'* (3), says there is 'a broad consensus that between 25 and 35 per cent of all alleged sexual abuse involves young, mainly adolescent, perpetrators'. Home Office statistics show 28 per cent of those convicted and cautioned in 2001 were under 21.

Donald Findlater, Deputy Director, LFF, says, while the media still, typically, focuses on sexual abuse perpetrated by strangers, the reality is that most children who are sexually abused are abused by someone they know as a family member, or trusted adult. But those who perpetrate abuse within their own homes are also a potential risk outside of their homes, as a proportion will offend against children outside the home who they know, as well as against family members.

Joe Sullivan, LFF, says in his *'Comparative study of demographic data relating to intra and extra-familial child sex abusers and professional perpetrators'* (4) that over 90 per cent of 'professional perpetrators' were aware of their interest in children by the age of 21 and about two-thirds had committed a contact sexual offence against a child by age 21. Over half said that their choice of career was wholly or partly motivated by gaining access to children. This indicates a need for child protection procedures at the point of entry to relevant professional courses. The *Independent* reported on 12 August 2003 that a 19-year-old trainee primary schoolteacher had been found guilty of using the internet to try to procure a young girl for sex. He was jailed for three years but was likely to serve only half of this period in prison and would not be put on the Sex Offender Register. Nor would he receive treatment in prison because the sentence was not long enough. The

new Sexual Offences Act would allow imprisonment of up to 14 years for such an offence and require sex offender registration.

The rise in child abuse images on the internet and information from Operation Ore and other similar operations is unearthing another whole tranche of abusers and potential abusers of children. Ninety-five per cent of those identified as viewers of abusive images of children in Operation Ore were previously unknown to police and, while overwhelmingly adult and male, come from all classes of society and professions – including those entrusted with caring for children and/or bringing abusers of children to justice. Urgent work is needed to better understand the links between 'viewing' abusive images of children and the viewer perpetrating child sexual abuse.

### 1.3 Action taken to tackle abuse

*Protecting the Public* (5) set out the action taken to build on and improve the arrangements to protect the public from sex offenders:

- Multi-agency Public Protection Arrangements (MAPPA) put on a statutory basis
- sex offender orders and sex offender restraining orders introduced to give police additional powers for managing sex offenders in the community (nearly 200 sex offender orders taken out by November 2002); these restrict the activity of sex offenders living in the community
- notification requirements of the Sex Offenders Act strengthened
- disqualification orders prohibiting unsuitable people from working with children brought in
- extended post-release supervision of up to ten years for sex offenders

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- places on sex offender treatment programmes in the Probation Service expanded
- maximum penalties for taking, making and distributing indecent photographs of children increased from three to ten years imprisonment
- a task force on child protection on the internet established and the foundation of the Internet Watch Foundation supported
- powers of arrest provided for customs officers and police when dealing with the importation of child pornography
- £1.5 million public awareness campaign to help young people to surf the web safely
- the National Crime Squad and the National Criminal Intelligence Service established, with grants of £134 million in 2002/03 and £68.5 million in 2003/04
- £25 million for policing of high tech crime – enabling the establishment of the National High Tech Crime Unit to catch those who distribute child pornography on the internet.

*Protecting the Public* (5) mentions the funding of a new database – VISOR (Violent and Sex Offender Register) – to give the police and Probation Service better access to the full range of information on dangerous offenders nationally. The *Independent*, 3 October 2003, reported that, following pilots, it was hoped to roll this out nationally in spring 2004 and to expand later to cover Northern Ireland and Scotland.

*Safeguarding Children: A Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (6) said that the Home Office Dangerous Offenders Steering Group was in the process of developing a national strategy for the assessment and management of potentially dangerous offenders. In the meantime, policy and guidance was being developed by the

Dangerous Offenders Unit, based in the National Probation Directorate. The programme included national standards and performance for MAPPA, and lay involvement and support for Stop it Now! and 'Circles of Support' – an initiative to provide support and accountability when offenders are released from prison into the community.

*Keeping Children Safe. The Government's Response to the Victoria Climbié Inquiry Report and Joint Chief Inspectors' Report Safeguarding Children* (7) said the following.

- The establishment of a new Public Protection Unit in the National Probation Directorate in the Home Office is a reflection of the importance attached to the issue of protecting the public from harm, and child protection is an explicit part of the Unit's remit.
- In order to target offenders, the Government is further developing the Violent and Sex Offender Register and improving the way sex offenders are managed in the community via MAPPAs.
- A task force has been set up to tackle online child abuse and paedophilia, and new legislation should increase the punishment available for sexual offences and exploitation.
- MAPPAs are being strengthened in the Criminal Justice Bill. This will include a 'duty to co-operate' with the police and Probation Services in each area, which will apply to all organisations that can contribute to public protection work – such as social services, housing, Youth Offending Teams (YOTs). The problems of relationships between MAPPAs and child protection arrangements identified in *Safeguarding Children* (6) will also be addressed by this duty – including the new Local Safeguarding Children Boards.

- New guidance will be added to MAPPAs and work will begin to embed MAPPA good practice in standards that can be audited.

## 1.4 Treatment and supervision

Chapter 7 of our companion report, *Progress on Safeguards for Children Living away from Home*, discusses treatment for sex offenders and concludes that available treatment for sex offenders against children falls well short of what is needed.

In relation to supervision of offenders, *Safeguarding Children* (6) found the following.

- There had been insufficient strategic focus nationally in order to ensure the effectiveness and consistency of local arrangements.
- All forces visited reported that the management of unconvicted persons or offenders who fall outside the Sex Offenders Act (SOA) was more problematic.
- In some areas inspected, offenders, required to register under the SOA 1997 and assessed as being of lower risk, were not subject to appropriate regimes of monitoring.

*Safeguarding Children: Findings on the National Probation Service Role from Three Inspection Reports* (8) said that:

*Child protection had fallen off the national policy agenda ... In relation to the wider NPS [National Probation Service] role of protecting the public, the overarching finding was the lack of public protection strategic framework. Although multi-agency work had been in place in many areas for many years, there had been no national co-ordinated approach. There had been an evolutionary development of arrangements in areas resulting in inconsistencies. Underpinning these inconsistencies was the absence of detailed national guidance. There was no multi-agency public protection strategic framework.*

However, there had been 'a positive start to partnerships between probation and police in establishing local multi-agency public protection arrangements'. MAPPA Guidance, first published in March 2003, was an attempt to remedy this lack.

### Treatment and supervision of men

Donald Findlater (July 2003) said that the more disciplined and research-based approach to risk assessment now utilised by police and probation in the community was commendable but was not without its drawbacks. The 'actual' tools in use were developed largely using a sample of imprisoned sex offenders, whose histories and circumstances (e.g. conviction and reconviction data) may not be typical of others who offend and either do not go to prison or are not convicted. While performing relatively well at predicting risk of reconviction, they *may* be poor at predicting risk of reoffence (not leading to conviction), for example, with incest offenders who are all too often deemed to be 'low risk'. Given that 'resources follow risk', the scrutiny given to offenders assessed as 'low risk' can often be alarmingly little. And the development of more statistically driven risk assessment tools has, alongside changes in probation service structures, led to a reduction in sex offender case work expertise among front-line staff.

There remained serious deficiencies in the number of places on appropriate treatment programmes for convicted sex offenders and a strategy to respond to this lack was seriously needed. While the structures, consistency and research base of prison and probation programmes were commendable achievements by any international comparisons, too many released sex offenders have received no treatment programme to reduce their risk prior to release. The numbers of community-based sex offender programmes run by the National Probation Service has risen recently to some 1,800 places per year. But as many as two-

thirds of supervised sex offenders do not have access to a programme relevant to their needs because of insufficient places, inadequate length of supervision, issues of denial and suchlike.

Findlater suggested that, given the numbers of convicted offenders in need of treatment and the historic inability of the statutory sector (principally probation and prisons) to make sufficient treatment places available, a serious rethink is called for. Consideration needs to be given to the potentially central role the Department of Health could take in the design and delivery of effective sex offender treatment programmes. Serious consideration is also needed about non-statutory provision of such treatment, as typically happens elsewhere in the world (notably USA, where the offender or his/her family variously contribute towards the cost of offender treatment, family education and services for victims). For offenders misusing the internet to gain access to child abuse images, creative solutions involving the technology of the internet itself could be created, perhaps involving partners outside of the statutory agencies in the design and development of these 'solutions'.

The Home Office has commissioned an amount of research into sex offender treatment efficacy, considering psychological change in the short term and reconviction data in the long term. Results have been used, alongside international research, to develop and refine sex offender treatment.

International research suggests that well designed and delivered cognitive behavioural therapy for sex offenders reduces reconvictions by some 40 per cent.

The Wolvercote Clinic was opened in August 1995 with the full support of the Home Office because of the very positive treatment outcomes achieved by the previous residential sex offender programme, the Gracewell Clinic. Because of problems relating to relocation, Wolvercote Clinic was closed (temporarily) in July 2002, despite its very positive results in terms of treatment outcomes with high-deviance or high-risk

offenders and despite its crucial contribution to the proper assessment and risk management of all 305 men who passed through its doors. There is currently no dedicated residential assessment and treatment facility for sex offenders in the UK, although the Home Office and Department of Health emphasise their support for such provision.

### **Treatment and supervision of women**

Sheila Brotherston, LFF, August 2003, says there is a real problem in relation to female sex offenders. There are barriers to the recognition of abusive behaviour by females and this means that potential victims are unprotected and girls/women are denied the help that they need. She said that there was 'appalling practice' in the looked-after system with staff having no idea how to handle girls with abusive behaviour, so they were left to abuse others in the system. She said that the main concern in prisons was sexual bullying by peers – e.g. crowding round after a visit and doing an internal inspection on pretence of looking for drugs. The response of prison authorities varied – some acted appropriately and treated it as an assault and child protection issue, and called in police; others dealt with it under their anti-bullying policy.

There were difficulties in providing treatment in prison because women who needed treatment were scattered throughout the prison system and often do not serve enough time for the whole programme. The Lucy Faithfull Foundation had run a group programme at Styal Prison and offered an outreach programme to provide support for the probation service.

### **Treatment and supervision of children and young people**

Chapter 7 of *Progress on Safeguards for Children Living Away from Home* refers to the lack of a joined-up, strategic approach to the problem of children and young people who display sexually harmful behaviour. This is despite the fact that NCH's *The Report of the Committee of Inquiry into Children and*

*Young People who Sexually Abuse Other Children* (9) was published 12 years ago, calling for a coherent response to lower the level of child sexual abuse and to help stop these children developing this behaviour into adulthood. A further NSPCC report, *'I think I might need some more help with this problem' – responding to children and young people who display sexually harmful behaviour* (3) concluded: 'The current arrangements for responding to children and young people who display sexually harmful behaviour are not adequate and in some cases inappropriate'. Many of the recommendations of the Committee of Enquiry had not been acted upon and others lack funding and monitoring. It included a comprehensive set of policy recommendations – cross-government and for the Children and Young Person's Unit (CYPU), DH, HO, the Department for Education and Skills (DfES), the Treasury, Youth Justice Board (YJB) and local authorities. These included the following.

- A cross-departmental UK government review to develop an overarching strategy of response based on a 'children-first' philosophy.
- DH should develop a national treatment strategy and establish a policy for accommodating these young people.
- HO should review the application of the Sex Offender Register and Schedule 1 to juveniles and develop an improved response to 18–25 year olds, especially those who are high risk, in accordance with the Children (Leaving Care) Act 2000.
- DfES should develop and disseminate guidance and training for all school staff, and improve sex education, especially for disabled pupils and those with learning difficulties. This would help children make informed choices about their behaviour and that of others.

A letter of 12 May 2003 from Lord Falconer, Minister of State HO, to Lord Campbell set out what is being done by an interdepartmental working group in response to a recommendation in the 2001 report on Dominic McKilligan<sup>3</sup> that the Government should develop a national strategy for young people who sexually abuse. The group consists of HO, YJB, DH, DfES and representatives of the Association of Directors of Social Services (ADSS) and the Association of Chief Police Officers (ACPO). Experts are also being consulted. It acknowledges that this group has not received the attention it should have in the past, so fact finding is necessary, including identifying relevant research. There will then be more detailed YJB research commissioned during 2004–05 to investigate the effectiveness of the methods used, to enable practice guidance to be updated. Also:

- the HO Dangerous and Severe Personality Disorder (DSPD) programme is funding a study into the characteristics of children and young people who commit sexual offences
- National Probation Directorate is funding a two-year pilot project developing assessment tools and programmes in three juvenile establishments for 15–17 year olds
- YJB is assessing an initial assessment tool for practitioners.

Areas that were identified for further work were:

- more research into the effectiveness of treatment interventions
- improved treatment in juvenile secure establishments
- more consistency in the way local areas deal with young people who sexually abuse
- all agencies who share responsibility for this work need trained and confident staff.

<sup>3</sup> A young person who sexually abused and killed a child.

The scope of the strategy will depend on the resources available – there are currently no commitments about scale and timing of future work. Consultation will be undertaken when ‘in a position to move forward’. It is not clear what has happened since.

Chapter 7 of *Progress on Safeguards for Children Living away from Home* describes the treatment services available for young people. While some progress is being made, the numbers of young people involved in treatment is very small in relation to need.

Some of the issues involved in working with this group of young people include a lack of:

- understanding of the needs of young people serving lengthy sentences
- understanding of the child protection issues involved in working with young people within the custodial environment, including their right to protection as children as well as the risk they may represent to others
- resources available in the community for follow-up work, which can impact on parole decisions
- specialist resources for young people in custody who experience mental health problems
- a national strategy for young people who cause sexual harm to others, which impacts on consistency of practice, resources, commissioning, risk management, availability of community disposals, research.

### 1.5 Analysis

The incidence of sexual abuse of children is far greater than most people would realise. It includes the hierarchy of abuse identified in *People Like Us* (1), with those who fall into abusive behaviour out

of personal weakness at one end and predatory career paedophiles at the other. Given the tremendous upsurge of abusive images of children on the internet, there may be yet another category of abusers – criminals who abuse, or arrange the abuse of, children for financial gain. This has always been a feature of the abuse of children but seems now to be escalating. And the viewing of abusive images may be prompting others to see the abuse of children as ‘normal’ and to seek to abuse children themselves.

The order of magnitude of the problem is great while the number of convictions remains worryingly low. For example, while recorded offences of gross indecency with a child more than doubled between 1985 and 2001, the percentage of convictions reduced from 42 to 19 per cent. Convictions are clearly not a reflection of the level of abuse against children. Experts estimate that fewer than one in 50 sexual offences achieves a criminal conviction. While many convicted offenders will have committed some of these unreported or undetected offences, a great many other offenders will remain unconvicted despite many offences, often across a lifespan.

There is now concern about ‘false allegations’ by children – in relation to both historical abuse and more recent allegations. In February 2004, it was announced that there would be ‘an unprecedented enquiry’ set up by the Criminal Cases Review Commission into 120 cases of historical abuse in children’s homes. It is a joint enquiry with the Historical Abuse Panel of lawyers. And delegates of the National Association of Schoolmasters and Union of Women Teachers (NASUWT) voted at their annual conference in April 2004 for a change in the law to allow teachers accused of physical or sexual abuse who were found not guilty to claim compensation from their accusers and their families. They also called for anonymity of teachers accused of abuse unless they were convicted (*Independent*, 15 April 2004). The Union was said to have established that only 69 out

of 1,782 allegations made by children against NASUWT members over the past ten years had actually led to convictions.

There have been malicious and false allegations made against professionals, including teachers, and the distress and damage caused both personally and professionally is enormous. But it is very misleading to assume that the remainder were ‘found not guilty’ and that the vast majority of children were making false accusations. The burden of proof for criminal convictions of ‘beyond reasonable doubt’ in these cases means, as *People Like Us* (1) pointed out, that the scales are weighted in favour of the accused and that some, perhaps many, who are in fact guilty will go free. It is recommended that more effective ways of securing convictions should be explored and that charges as well as convictions should be included among the ‘soft’ information provided in background checks of potential employees. The Ian Huntley case illustrates clearly that children could – and should – have been protected by the use of this ‘soft’ information.<sup>4</sup>

Measures to improve the rate of convictions are even more important now, if it is assumed that those who are not convicted are, necessarily, innocent and therefore able to continue to work with children *and* if those who make allegations are to have the scales tipped yet further against them with the threat of action being taken against them. While false allegations are undoubtedly extremely damaging to those unfairly accused, there is no evidence that these account for a sizeable proportion of cases, and it should be expected that careful and thorough examination by the police and Crown Prosecution Service (CPS) would eliminate the vast majority of these.

Abusers are adept at preventing their victims from speaking out or seeking help, and at avoiding detection by colleagues and the parents of their victims. To threaten action against children who

‘falsely’ accuse teachers or others would be a perfect gift for abusers since they could use this as a further – very powerful – means of keeping their victims quiet. The incidence of abuse against children and the propensity of abusers to seek out professions in which they have access to children is well established and makes it inevitable that there will be a number of teachers – both male and female – who are abusing children. This needs to be recognised and children should be encouraged to seek help at an early stage if teachers – or others – behave inappropriately rather than be silenced because of threats of retaliation if they do.

It is hoped that the new Sexual Offences Act will lead to longer sentences – which will not only protect children for longer but also provide enough time for the completion of treatment programmes. However, for those who are convicted, there is a lack of adequate treatment programmes, particularly for women and young abusers, and resources to monitor and supervise after release those who are discharged yet remain a danger to children are insufficient, with only the most serious offenders subject to MAPPA. Even when concentrating on the most dangerous offenders, proper supervision is extremely resource intensive. These gaps in need and provision must be addressed.

However, there is a dilemma. Since MAPPAs are so expensive in terms of resources and staffing, it is unlikely that it would be possible to extend arrangements to all those convicted who are a danger to children. And, in any case, action that focuses on convicted offenders will tackle only the tip of the iceberg. Action is needed to identify more of those who are abusing children and to do so at an earlier stage.

It is essential that barriers are put up to deter abusers and that they are consistent in *all* settings in which children are vulnerable. As this happens, would-be abusers will seek out those areas that are

<sup>4</sup> The Bichard Inquiry Report was published after this study was completed. Its recommendations are supported.

least well guarded and/or where the victims are least able to be credible witnesses – because of their age or disability.

Progress has been made in statutory and many voluntary organisations in relation to measures to prevent convicted perpetrators from working with children but there is a worry that there is too much reliance on Criminal Records Bureau (CRB) checks. Those without convictions may even have a *freer* hand as CRB checks take resources away from other areas. Many organisations and agencies working with children do not supervise and monitor employees and volunteers as they should in order to detect warning signs. There is still a problem with non-statutory agencies and non-convicted perpetrators. There are still plenty of opportunities to work with children, for example, Scouts are checking only current recruits and not those already in the organisation.

Among the most urgent needs are:

- information on an ongoing basis for the public, and, in particular, parents, carers, staff working with children and children themselves, to help them identify signs of abuse and signs that a person is abusing, and to explain how to report this
- a consistent response to those children and young people who display sexually harmful behaviour – both for their own sake and to prevent the behaviour becoming entrenched
- a proper range of programmes of treatment for abusers, in sufficient numbers and available both in prison and in the community
- ongoing, informed management and supervision of those at most risk of re-offending.

Such action to improve the protection of children will help but will not be enough to turn the tide. Given the high incidence of abuse, if real progress

were made in identifying and successfully convicting a significant proportion of those who sexually abuse children, the criminal justice system and prisons would be swamped. Even if community sentences were given instead, there would not be the resources to provide the supervision needed.

On the other hand, if the problem goes unchecked, there will be an inexorable rise in the numbers of children subjected to sexual abuse with all the damaging effects that can have – mental-health problems, self-harm, low self-esteem and, perhaps worse still, a proportion will go on to abuse others. A radical rethink of policy is needed.

The problem must be tackled nearer to the source. A focus on prevention is needed, including programmes to offer help to abusers and their families to address the behaviour at an early stage. This is why Chapter 7 of *Progress on Safeguards for Children Living away from Home* recommends the funding of a national expansion of preventative schemes on the lines of Stop it Now! UK and Ireland. Stop it Now! provides sound information to *all* adults about the scale of the problem of child sexual abuse; the warning signs we can all look out for; and the necessity of action to prevent abuse. Its target audiences are: abusers and potential abusers; their friends and family; and parents or carers of young people with sexually worrying behaviour. The challenge to them all is to act to prevent the sexual abuse of a child. The campaign and its messages are supported by a range of leaflets and posters, and a freephone helpline that is already experiencing remarkable levels of use but whose future is by no means secure. Stop it Now! local projects currently operate in Surrey, Thames Valley, Derbyshire, Croydon and Northern Ireland.

Another Home Office backed project, 'Leisurewatch', seeks to prevent the sexual abuse of children who may be 'groomed' with a view to abuse in a leisure or sports context. All staff within leisure centres, from cleaners to lifeguards and managers, are trained in how offenders operate, how staff can intervene to protect children and how

and when to involve police. Thus far, only a few local projects exist in Northumbria, Surrey and London. Stop it Now! and Leisurewatch type projects are needed throughout the country. They need to be locally based, as police commitment, support and involvement is essential and they need to address the needs of local communities.

Without action to safeguard children against non-convicted perpetrators, efforts to safeguard them through service improvements will continue to be an unequal, though vital, struggle. More work on all fronts is needed.

## 1.6 Action needed

More effort is required to gather and analyse information about the scale and nature of abuse and about the profile of abusers. This is needed in order to:

- inform policy making, including sentencing policy
- establish the need for services – for the treatment of both victims and perpetrators
- provide the basis for information to the public about risks and for an active public health style prevention programme.

Information from large-scale internet pornography investigations and from inquiries to Stop It Now! and other helplines should be combined with criminal statistics to provide a fuller picture than is now available about the age, gender, social class and professions and work backgrounds of abusers.

*People Like Us* (1) recommended that data should be kept about the numbers of cases where charges are made but not proceeded with, together with the reasons for this. The ages of the child(ren) involved should be included and other relevant data, such as whether the child was disabled and the nature of the disability. This would enable an analysis of the trends in charges, convictions and

cautions for offences against children and reasons for not proceeding with charges. The new Children's Commissioner should receive an annual report on this and should monitor the situation. The data could form the basis of research similar to that undertaken to explore the reasons for the low rate of convictions in cases of rape and to help in the development of ways of improving the conviction rate or finding other ways to identify abusers and protect children against them.

As *Progress on Safeguards for Children Living away from Home* says, lack of available treatment for sex offenders against children is a major issue. Treatment arrangements and provision fall well short of what is needed in relation to adult male offenders against children. It is even more inadequate for women and young abusers.

The problem of young abusers – both male and female – must be addressed at a very early stage to prevent them entering on a career of abuse, thus escalating the problem still further. Considerable investment of resources – both human and financial – will be needed in order to develop suitable prevention and treatment programmes. The new Interdepartmental Ministerial Group on Sexual Offending should ensure that the necessary resources are provided to build up these programmes.

There is a need to recognise and deal with inappropriate behaviour at an early stage, particularly in residential settings.

For those who have been identified as abusers, there is a need to assess both risk and treatment needs. Many local authorities have procedures in place to do this, but progress is needed in applying these effectively since the necessary expertise is lacking.

Improvements must be made in applying the policies and procedures put in place nationally to check people who want to work with children. It is clear from the Bichard Inquiry that these are not being implemented properly. 'Soft' information is not being retained and used to build up a cumulative picture, as *People Like Us* (1)

recommended. It is hoped that procedures for recording, retaining and sharing information will be improved as a result of the Inquiry.

Guidance for those assessing and selecting applicants on what signs to look for would be helpful. Many do not have the confidence and skills to probe attitudes to sexual boundaries. An important element in this should be thorough checking of the background and life history of the applicant, since this may throw up questions that can be pursued both with the applicant and by seeking further information from previous employers – for example, about reasons for departure or a change in career path, etc.

There should be an emphasis on prevention and early intervention. Locally based initiatives to raise awareness of abuse and to provide help and advice, on the lines of Stop it Now! and Leisurewatch, are needed.

Action on all these fronts would help but much more is required. These elements need to be brought together to form a strategic approach to the protection of children and to the problem of the sexual abuse of children in particular. Such a strategy should be based on a comprehensive analysis of the nature and scale of child sexual abuse and abusers, including the use of the internet, and a comparison of this with the nature and scale of the preventative and treatment facilities for perpetrators and for abused children and young people. It should include:

- the role of all the government departments with relevant responsibilities and all the services and agencies involved, including those in the criminal justice system
- the identification, conviction and /or treatment of sexual abusers
- the management and sharing of the available information, including 'soft' information

- more help and treatment for those who have been abused – this is necessary both in its own right and to help reduce the numbers of those who are victims from going on to become abusers
- help and counselling for those who recognise they are at risk of offending
- ways of dealing with those who are offenders who may be prepared to accept help but who have not been convicted
- more provision for those who have been convicted of sexual offences against children, including those found guilty in relation to abusive images of children
- much more provision for young offenders, who will often need treatment facilities separate from other children and who will need help and supervision into adulthood.

Clear messages need to be given by the Government that sexual abuse of children, including child abuse images and the abuse of children through prostitution, is highly damaging and will not be tolerated. It should not be deterred from prosecuting offenders by the large numbers involved. The sexual exploitation of children is big business – those who benefit financially from this should be punished by heavy fines and long terms of imprisonment. But much more emphasis is needed on prevention and early, less punitive, forms of intervention, which encourage both victims and perpetrators to come forward rather than feeling that they and their families have everything to lose and little to gain by doing so. Given the scale of the problem and the massive shortfall in treatment and supervision facilities and resources for those who have been identified as abusers, a major rethink of policy is needed on how best to tackle this very serious and growing problem.

### 1.7 Recommendations

In addition to the recommendations in Chapter 7 of *Progress on Safeguards for Children Living away from Home*, the following recommendations are made.

- 1 The Home Office should commission a study that brings together all the information available from different sources on those who sexually abuse children – age, gender, profession, social class, etc. And on their relationship with the children concerned – relative, family friend, teacher, etc. This should be used to estimate the scale and nature of the problem, and to inform the public.
- 2 A comparison should be made of the results of the analysis of the scale of the problem of sexual abuse of children and the treatment and supervision arrangements that are available and the size of the shortfall established. (Home Office, DfES and DH)
- 3 Data on charges, convictions and cautions for sexual offences against children should be kept and analysed on an annual basis. It should include the age and gender of the alleged perpetrator, reasons for not proceeding with charges, the gender and age of children involved, and other relevant data such as disability. (Home Office)
- 4 This data should be used to develop ways of improving the conviction rate or finding other ways to protect children. (Home Office)
- 5 The new Children's Commissioner should actively monitor the annual trends in offences against children and the data derived from the above analysis.
- 6 The implementation at local level of the arrangements for checking staff and others with unsupervised access to children should be improved in the light of recommendations made by the Bichard Inquiry, and DfES should issue practical guidance on what checks, in addition to CRB checks, should be made and what warning signs to look for. (All departments of state and organisations with responsibility for caring for children)
- 7 Locally based initiatives on the lines of Stop it Now! UK and Ireland and Leisurewatch should be encouraged, facilitated and resourced. (Home Office, DfES)
- 8 All of these measures, and others, should be drawn together to assist in the formulation of a strategy for the protection of children from sexual abuse. This should cover:
  - the analysis of the scale of the problem and the resources currently deployed to deal with it
  - the early identification of potential abusers and programmes to prevent further abuse
  - the measures that should be taken to protect children from abusers
  - ways of improving the conviction rate for abuse or the introduction of other measures to deal with those who, while not convicted, pose a risk to children
  - ongoing programmes of information and education for children, parents, carers, staff and volunteers working with children on what constitutes abuse, signs of abuse, where to go for help, what action can be taken to reduce risk, etc.

*Continued overleaf*

## Safeguards for vulnerable children

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The Cross-departmental Working Group on Sexual Offending should jointly prepare a strategy document and submit this to the Interdepartmental Ministerial Group on Sexual Offending and the Ministerial Subcommittee on the Delivery of Services for Children, Young People and Families.

## 2 Disabled children

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### 2.1 Introduction

Chapter 4 of *Progress on Safeguards for Children Living away from Home* looked at the recommendations in *People Like Us* (1) about disabled children. We concluded that:

*... the vulnerability of disabled children to abuse is now recognised in policy documents and guidance though this varies in different settings and is inadequately covered in health and penal settings. Disabled children remain vulnerable, particularly in health settings (where health authorities fail to notify local authorities when children are in hospital for three months) and in residential schools with 52-week provision. And there is a shortfall of practical help and guidance on how to protect them. There has been some progress in obtaining statistical information but much more is needed. Better co-ordination and co-operation between services is still needed for disabled children in relation to health, education, welfare, residential provision and transition to adulthood.*

It recommended the following.

#### **Recommendation 1**

Further information should be obtained about the needs of vulnerable groups of children, including:

- disabled children – particularly those in residential special schools with 52-week provision
- children in hospital settings for long periods – including those with mental-health problems
- children with emotional and behavioural difficulties
- very young children.

Safeguards should be an integral part of the policy developed to meet these needs. (DfES lead; DH and HO)

#### **Recommendation 7**

DfES and DH should arrange the production and issue of practical guidance on the action that can be taken to safeguard disabled children in all settings, particularly in residential special schools and health settings.

#### **Recommendation 8**

Action is needed by DfES and DH to ensure that local education authorities and health authorities notify the responsible local authority when a child is resident in an educational or health setting for three months or more, as required by Sections 85 and 86 of the Children Act 1989.

#### **Recommendation 9**

Children in Need Censuses should be held at regular intervals, and DfES and DH should carry out the exercise to collate existing statistical information on disabled children in children's homes, residential special schools and health settings every three years.

#### **Recommendation 30**

The Home Office should commission research to establish the best methods of dealing with child witnesses. This will inform debate and policy making so that fewer children are harmed by the process of giving evidence and more perpetrators can be brought to justice. Particular attention should be given to arrangements in relation to very young children and those who are disabled.

#### **Recommendation 31**

The Home Office should commission research to find out why offences against children are not pursued/have a low rate of conviction, and to suggest how conviction rates can be improved. The age and any disabilities the child has should be covered in the analysis.

This chapter looks in more detail at what is now known about:

- vulnerability of disabled children
- disabled children and the criminal justice system
- information and statistics about them.

### 2.2 Vulnerability of disabled children

The National Working Group on Child Protection and Disability was set up in July 2001, with the NSPCC and the Council for Disabled Children as co-chairs, in response to concerns among many groups that there was no learning from cases where things went wrong. Its members have much experience of working with disabled children and adults, so they are well qualified and placed to pool their knowledge and identify key issues about safeguarding disabled children. Its first report '*It Doesn't Happen to Disabled Children*' – *Child Protection and Disabled Children* (10) makes these key points.

- Evidence from research in the USA and UK suggests disabled children are more than three times more likely to be abused than other children. There has been more research in the USA than in the UK. Research suggests three factors make disabled children more vulnerable, namely: society's attitudes and assumptions; inadequate services; factors associated with impairment.
- There has been progress in recognising that disabled children have as much right as non-disabled children to be safe, but central and local government have so far generally failed to protect them effectively.
- There are barriers to effective protection of disabled children at all stages of the child protection process – from referral to taking action against the suspected abuser.

- Children in residential special schools are particularly vulnerable and local authorities do not pay enough attention to their welfare. The placement decision may have been made without a full assessment of the child and family's needs and have been based on availability rather than choice.
- Addressing the everyday abuses of the rights of disabled children (abuse with a small 'a') may be significant in helping to reduce their vulnerability to forms of harm at the other end of the spectrum (abuse with a large 'A').
- Experiences of child protection investigations and the criminal justice system highlight the barriers to getting justice for abused disabled children, including the barriers they encounter before getting to court.

The report makes eight recommendations – six call for central government to:

- review the current child protection system and include in this how the process works for disabled children placed out of area, especially in residential special schools
- develop a national strategy for safeguarding disabled children
- fully address disabled children's safeguarding needs in the forthcoming National Service Framework (NSF) for Children, Young People and Maternity Services and government plans for improving children's services in *Every Child Matters* (11)
- implement the recommendation on 'appropriate inspection activity' about disabled children by the relevant inspectorate in the first *Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (6) before the next Joint Inspectors' report

- collect information about disabled children being abused within current recording systems
- review the effectiveness of the special measures introduced in the Youth Justice and Criminal Evidence Act 1999 and the guidance in *Achieving Best Evidence in Criminal Proceedings* (12) promoting justice for disabled children.

The other two recommendations call for:

- research to inform development of better practice in safeguarding disabled children
- Area Child Protection Committees (or future equivalent bodies) to develop local multi-agency safeguarding strategies for disabled children.

The Group is now taking these recommendations to policy makers and national and local forums in order to:

- raise awareness
- promote action
- identify opportunities to advise.

### 2.3 Disabled children and the criminal justice system

*People Like Us* (1) concluded that the criminal justice system was generally ineffective in deterring offenders and in securing convictions of those who are guilty. Its failings were most marked in relation to those who are most vulnerable – the very young and the disabled. The section on prosecuting sex offenders in our companion report found that there had been no progress in bringing perpetrators to justice. However, much has been done to try to help vulnerable witnesses give evidence. New offences against children have also been included in the Sex Offences Act 2003, including three new offences to protect vulnerable people.

*People Like Us* (1) discussed how to help children with learning disabilities with communication impairments who had been abused. It recommended that, where a child had been abused, police, social services and health authorities should provide personnel who have been trained to communicate with those with learning disabilities. There needed to be further work to develop non-verbal means of communication and systematic approaches to interviewing and discussing emotional issues.

*Working Together to Safeguard Children: A Guide to Inter-agency Working to Safeguard and Promote the Welfare of Children* (13) says about the abuse of disabled children: 'Agencies should not make assumptions about the inability of a disabled child to give credible evidence, or to withstand the rigours of the court process'. It mentions disabled children with communication difficulties who may need to use non-verbal communication systems, interpreters or facilitators.

*Community Care*, 10–16 October 2002, reported on social services and police working together in Staffordshire to improve collecting evidence from people with learning difficulties. It quoted from *Behind Closed Doors: Report from Voice UK*, (Mencap and Respond, 2001) that research had shown that, of 284 suspected cases of alleged sexual abuse against people with learning difficulties, only 63 (less than a quarter) were investigated by police. Two of these went to court and only one resulted in a conviction. This was because victims were thought to be unable to give their side of the story or were unreliable witnesses. However, *Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable and Intimidated Witnesses, including Children* (12) recognised that, with proper support, vulnerable people can make good witnesses. Concern was expressed that resources and, in some areas, commitment were not sufficient to effect changes.

In *Community Care*, 31 October–6 November 2002, an article by MacKinnon *et al.*<sup>1</sup> said there were 2,000 new cases of sex abuse reported each

1 Shelagh MacKinnon, Barbara Bailey, Una Devlin and Lilian Johnson, 'Helping hands to justice', *Community Care*, 31 October–6 November 2002.

year that had been committed by and against people with learning disabilities, with no action being taken in more than half of these cases. Where incidents are investigated, the Crown Prosecution Service seldom decides the criteria for trial are satisfied. When they do, convictions are low:

*Generally, the judicial system does not afford people with learning disabilities equal access or appropriate support. Lack of knowledge and understanding about learning difficulties have led to reports of sexual abuse being seen as a social or staffing problem, leading to what some refer to as 'almost decriminalisation' of offences.*

The National Working Group on Child Protection and Disability, in its response to *Every Child Matters* (11), welcomed the measures to support vulnerable witnesses but said that they did not address the barriers encountered by disabled children. In particular:

- decisions are often made not to proceed with formal interviews of a disabled child, based on ill-informed knowledge or understanding of their impairment and its impact
- *Achieving Best Evidence in Criminal Proceedings* (12) allows the judge, prosecution and defence barristers to be provided with reports on the witness's impairment or vulnerability but not the jury, who have to assess the witness's evidence
- piloting of the use of intermediaries has been delayed, therefore setting back their national introduction.

The National Working Group points out that disabled children often fall at the first hurdle in getting access to justice when social care professionals, police and lawyers assume that they will not make 'credible' witnesses. It recommends that the Government:

- extends the special measures in the Youth Justice and Criminal Evidence Act 1999 to include the provision of information to juries about a witness's impairment and its impact on their evidence
- requires that good practice in witness preparation be adopted on a national basis
- speeds up the full implementation of *Achieving Best Evidence* (12)
- carries out research on disabled children's experiences of the criminal justice system
- disseminates examples of good practice.

## 2.4 Information and statistics

There have been some welcome changes since *People Like Us* (1) but they do not amount to the collection of information and statistics necessary to get a true picture of trends and needs of disabled children so that policies and services could be developed to meet them. Information about the numbers of disabled children and their needs is patchy and rather limited.

Three Children in Need Censuses held in February 2000, September/October 2001 and February 2003 have provided some information on disabled children. Information also comes from the disability identifier in the Looked After Children returns. Data on special educational needs (SEN) does not identify disabled children. Hospital Episode Statistics (HES) data on children in health settings does not have a 'disability' heading, so does not identify disabled children as a distinct category. However, some of the categories can easily read across to disability, thus allowing for identification of some disabled children.

The *Children Act Report 2002* (14) gave some further information about disabled children from a Personal Social Services Research Unit (PSSRU) secondary analysis of the Children in Need Census 2000 and said that:

- only 2 per cent of disabled children in need are on child protection registers, compared with 8 per cent of all other children in need
- a higher than average proportion of Asian children in need are disabled – 22 per cent – while, among Afro-Caribbean and mixed-race children, the proportion of disabled children is lower than average.

Other information comes from smaller-scale studies, such as one referred to in the National Working Group's response to *Every Child Matters* (11). One county council found that, while disabled children made up only 2 per cent of the local child population, they accounted for 10 per cent of children on the child protection register.

*Disabled Children in Residential Placements* (15) draws together available information about the numbers, circumstances and outcomes of disabled children in residential placements – mainly children's homes, residential special schools and health settings. This report starts to fulfil the commitment in *Valuing People: A New Strategy for Learning Disability for the 21st Century* (16) that DH and DfES would work together to find out more about disabled children in residential placements, develop ways to make it easier for children and their families to keep in touch, and ensure key agencies support and protect them. The report was published on the DfES and Quality Protects website but has not been sent out in hard copy and no press release was issued. However, an invited seminar discussed a draft of the report in May 2003. The report provides a thorough analysis of data currently being collected and draws out the weaknesses, especially in the case of children spending long periods in health settings. Key points about the number of disabled children living away from home are as follows.

- A total of 1,320 looked-after disabled children are in residential settings; 1,205 are split fairly evenly between children's homes/

hostels (610) and residential special schools (595). A further 115 disabled children are variously in residential care homes (80), residential accommodation not subject to the Children's Homes Regulations (15), NHS establishments (15) and secure units (5).

- Most are white and aged between ten and 15.
- Thirty-nine per cent (235) of those in children's homes and hostels were placed out-of-area.
- There are nearly 700 looked-after disabled children aged between 16 and 19, of whom about 400 are in children's homes or schools, 190 in foster care, 50 in a care home and five in a health setting.
- Looked-after disabled children are less likely to be in foster care than other looked-after children – 40 per cent compared to 66 per cent of all looked-after children. Nine-hundred and sixty-five disabled children (aged 0 to 19) are in foster care.
- About 10,500 children go to residential special schools – 3,400 in maintained schools, 2,700 in non-maintained ones and 4,400 in independent special schools. Two-thirds (around 7,000) board for six nights a week or less. Nearly all these children have statements of SEN, but data on whether they are disabled is not currently collected. The report says there is considerable overlap between disabled children and those with SEN statements. However, the biggest single group is teenage boys with emotional and behavioural difficulties (EBD).
- Since January 2004 the number of children in maintained and non-maintained special schools is being recorded by type of SEN. This does not extend to independent special schools, but the possibility of doing this is being explored.

- Information on children in schools is improving through Pupil Level Annual Schools Census (PLASC) and the work of the SEN Regional Partnerships.
- Data on admissions to health settings does not identify disabled children as a group, but, in the last three years, 2,200 children have spent over six months as in-patients with the most common reason for admission being 'mental and behavioural disorders'. Most admissions (1,387) were in the 15–19 age group; the next highest group was children aged between ten and 14. The data also suggests that children with learning disabilities are 'particularly likely to have long stays in hospital, although it cannot be determined that the learning disability is the reason for the long stay'.

The report groups its recommendations under six headings: assessment and review; data collection; implications for services planning; inspection; promotion of good practice; priorities for research. On data collection, it says this has improved through enhanced returns on looked-after children, the Children in Need Census, PLASC and the work of the SEN Regional Partnerships, but there are still gaps in data, in particular in relation to children in independent special schools, and it makes five recommendations.

- HES data should be used to analyse information about children spending long periods in hospital and their ethnicity.
- Further work on outcomes through the National Pupil Database.
- The SEN Regional Partnerships should collect data annually from all local authorities on placements in residential special schools.

- Data should be made available to all local authorities showing type of placement by disability for looked-after children.
- The data in the report had not previously been brought together. In order to achieve greater awareness of this information, the data about disabled children should be collated and published, using the statistical returns analysed for the report.

On priorities for research, the report noted a lack of literature on aspects of residential placements for disabled children. It lists the research questions suggested at the invited seminar including:

- outcomes
- numbers in 52-week placements and how many of them are isolated from family life
- how local authority placement policies affect disabled children and whether there is acceptance that they have to be placed in residential settings more often and if these are more often further from home.

The report says nothing about the timing of the next Children in Need Census. The status of the report is not spelled out and it is not clear how DfES and DH propose to take forward any of the recommendations.

### 2.5 Analysis

Society seems still to be in denial about the fact that disabled children are more likely to be abused than non-disabled children. This may be because, generally speaking, less attention is paid to disabled children's human rights and to providing advocacy services for them. They are still commonly seen in terms of their impairment and the characteristics that make each child unique – age, gender, ethnicity, religion and culture – are

subsumed in the one label. This has to change so that the systems set up to safeguard all children cover disabled children on equal terms. For disabled children living away from home, the systems need to be strong and effective.

*'It Doesn't Happen to Disabled Children'* (10) is a succinct analysis of the current state of knowledge about the vulnerability of disabled children in general, with useful recommendations for how to move this issue into the mainstream. It argues for a rights-based approach as the key to safeguarding disabled children and lists three basic rights: the right to safety; the right to communication; and the right to express one's feelings and have these taken into account. Many practitioners recognise that disabled children are being abused, but the way in which child-protection procedures operate prevents them taking action to deal with this. The Working Group wants to use its report to raise awareness of this issue and it is encouraging that DfES officials are meeting them to talk about the report.

The criminal justice system's continued inability to prosecute those who have abused disabled children remains a major failing. Action has been taken to change the law to improve the protection of vulnerable people through the new offences in the Sex Offences Act 2003. These are welcome and it is hoped that they will help to reduce the abuse of disabled children. So, too, are the measures in *Achieving Best Evidence in Criminal Proceedings* (12). Much remains to be done, however, to ensure that, when charges are made, resources will be available to proactively assist disabled children and young people to give evidence and be supported during the court process. Help with communication difficulties is essential and extra time may be needed to allow for this. We support the recommendations from the National Working Group on Child Protection and Disability.

Progress has been made in obtaining and collating information on disabled children and *Disabled Children in Residential Placements* (15) is a welcome addition to the literature on this subject,

especially as it enables policy makers and practitioners to understand more about the numbers involved and the type of placement. However, much remains to be done to collect and share information about disabled children and their needs between the different agencies that must work together effectively to provide the services they require. As a first step, DfES and DH should ensure that local authorities and other stakeholders know about the findings and recommendations in the *Disabled Children in Residential Placements* (15) report.

The data on looked-after disabled children is more comprehensive than that collected on children in residential schools or health settings and in particular highlights the fact that such children are more likely to be placed in a residential setting than in foster care. This needs to be examined in more depth in order to establish the reasons for this difference. *'It Doesn't Happen to Disabled Children'* (10) said that decisions to place children in residential special schools are often based more on what is available than on an holistic assessment of the child and family's needs. This may also be the reason that looked-after disabled children are more likely to be placed in a residential setting than in foster care.

The data on non-looked-after disabled children in residential schools is not as comprehensive and at present cannot be analysed by ethnicity or type of SEN. DfES is now collecting information by type of SEN and is seeking to get independent special schools to be part of PLASC, so the position is likely to improve. The information collected on children spending long periods in hospital or other health settings is very limited indeed and must be improved. It is unsatisfactory that disabled children are not identified as a group and that, in England, a patient coming under a new consultant is classified as a new episode even if he or she has stayed in hospital throughout.

Attempts to collect information about disabled children are bedevilled by problems of definition.

The National Working Group on Child Protection and Disability pointed out in its response to *Every Child Matters* (11) that there is currently no common definition across agencies, nor agreed methods of collecting information about needs. This makes it difficult to plan for either universal or targeted services and to evaluate and monitor whether services – including child protection services – are adequately serving disabled children. It recommends that the development of the ‘information hub’ should include a common definition of ‘disabled child’ and clear guidance to all relevant agencies about this definition. In the case of children with communication impairments, it is vital that the information includes specific details about how they communicate, and what skills any professional in contact with the child will need to access in order to carry out assessments and reviews, and to consult with the child.

The Working Group also recommends that DfES should require Local Safeguarding Children Boards to collect statistical information about disabled children and child protection. This should be collected at national level, analysed and published at regular intervals. The Government should issue guidance on definitions and the categories to be used for recording disability/impairment to ensure consistency.

### 2.6 Recommendations

In addition to the recommendations in *Progress on Safeguards for Children Living away from Home* on disabled children and criminal justice, we make the following.

- 1 DfES and the National Working Group on Child Protection and Disability, when identifying ways to take forward the recommendations in *‘It Doesn’t Happen to Disabled Children’* (10), should establish an agreed and timetabled programme of action, including ways to raise awareness about the vulnerability of disabled children to abuse and how to protect them.
- 2 It would be helpful if the Home Office could establish a similar programme to take forward the recommendations made by the National Working Group on Child Protection and Disability for addressing the barriers encountered by disabled children in the criminal justice system.
- 3 DH should change the basis for collecting information about children being admitted to hospital so that disabled children are clearly identified. It should adopt the practice in Scotland of using the patient as the denominator, so that changes in consultant do not count.

# 3 Children and young people in prison

## 3.1 Introduction

In our companion report, we discussed the recommendations in *People Like Us* (1) about children and young people in prison and concluded that:

*Prisons are the most worrying area in relation to safeguarding children. Children in prisons are not being safeguarded, though attempts are now being made to improve the situation. Instead of removing children from prison as People Like Us [1] recommended, more children are being imprisoned.*

There is now a separate regime for boys under 18 but only recently has action been taken to provide an appropriate regime for girls. Remands to prison are a serious problem and are increasing, with custodial remands extended to 12 year olds. Seventeen year olds are treated as adults for the purpose of remands and bail, in contravention of the UN Convention on the Rights of the Child. The welfare and protection of children has not been a priority for prison establishments, though there are welcome signs that this is changing, and their health and education needs are inadequately dealt with. The following recommendations were made.

### Recommendation 3

Safeguards need to be strengthened in private foster care, prisons and health settings. (DfES, DH and HO/Prison Service/YJB)

### Recommendation 5

Strategic health authorities, primary care trusts and other health trusts providing services for children should give priority to looked-after children and children in custody, particularly those with mental-health and emotional problems.

### Recommendation 6

Local authorities should provide support to young care leavers *and* other vulnerable young people who do not have parental support, including those leaving custody.

### Recommendation 16

The Home Office should undertake a fundamental review of the use and place of custody in society, and what the alternatives are, in line with the UN Convention on the Rights of the Child, i.e. that detention of children should be a measure of last resort and for the shortest possible time, and that they should be separated from adults – including young adults. It should consider how far existing legislation helps or hinders this.

### Recommendation 17

Children in custodial units should have the same rights and access to universal services such as health and education as all other children.

### Recommendation 18

It would be helpful if the Youth Justice Board mounted a ‘Quality Protects’ style programme for children and young people in custody, with a view to improving the quality of service they receive and improving their life chances.

This chapter considers two issues in relation to the imprisonment of children and young people:

- the extent to which they should be imprisoned and at what age
- the conditions and rights of those who are imprisoned.

## A The imprisonment of children and young people

### 3.2 Trends in imprisonment of children and young people

*People Like Us* (1) said 'prison is no place for children' but, as noted in *Progress on Safeguards for Children Living Away from Home*, penal policy in the UK on the imprisonment of children has developed in the opposite direction to that recommended by *People Like Us* (1) and others. More children have been incarcerated at a younger age, despite a reduction in youth crime.

*Children in Prison. Barred Rights* (17), the Howard League for Penal Reform's (HL) submission to the UN Committee on the Rights of the Child, says the following.

- The UK locks up more children than any other country in Europe. In July 2002, there were 2,888 children under 18 held in prison, including 138 girls.
- There has been an increase in the use of imprisonment at a time when recorded offending by children has been in decline.
- Although a child can serve a custodial sentence in a Young Offender Institution (YOI), Secure Training Centre (STC) or secure unit run by a local authority (LASU), in practice, most go to a YOI, as this is where 84 per cent of custodial places are located. In practice, pressure on places means that children aged 15 or over almost always go to prison custody.
- 3,131 boys and 180 girls aged 17 were received into prison on remand during 2000.

In *State of Children's Rights in England* (18), the Children's Rights Alliance for England (CRAE) said the following.

- The numbers and plight of locked-up children has become a national scandal.

- There remains no legislation to prevent children being placed in adult prisons and the practice continues, although, within these prisons, under 18s are now separated.
- Girls (who proportionately represent a considerable increase in recent years) are particularly affected and are often locked up a long way from home.
- Children serving long-term detention are routinely moved from civil childcare secure facilities to prison on attaining the age of 15 because of pressure from the numbers of younger children now receiving custodial sentences.

Barry Goldson's article in *YoungMinds Magazine* 63 (2003) points out the following.

- There has been a 28 per cent increase in imprisonment in England and Wales between 1995 and 1999, and the per capita rate is second highest in Western Europe.
- The increase is not caused primarily by rising crime rates (which fell by 19 per cent during exactly the same period) but the product of 'get tough' policies.
- Custodial sentences for children rose from 4,000 per annum in 1992 to 7,600 in 2001, during which time the rate of child remands rose by 142 per cent.

A NACRO report – *A Failure of Justice: Reducing Child Imprisonment* (19) – said the following.

- The number of under 15s sentenced to detention in the last ten years has risen by 800 per cent, though rates of recorded offending by under 18s fell by one-fifth between 1992 and 2001.

- Young black people are over-represented in the youth justice system, being nearly five times more likely to be incarcerated.
- Although the level of youth custodial sentencing has risen by more than 90 per cent since the early 1990s, the expansion for girls is 'particularly alarming' at about 400 per cent.

*Safeguarding Children. A Joint Chief Inspectors' Report on Arrangements to Safeguard Children (6)*, which drew on inspection reports by HM Chief Inspectors of Prisons and others, said the vast majority of children and young people under 18 were placed by the Youth Justice Board (YJB) in prison service establishments, up to 2,900 boys being placed in 13 YOIs and four adult prisons with capacity for 100 girls.

*Community Care*, 21–27 November 2002, reported that Lord Warner, then Chair of the YJB, had told the YJB annual convention that the juvenile estate is suffering 'serious turbulence' as a result of overcrowding. At the end of October, it had reached 97 per cent capacity and had started to suffer when it reached 92 or 93 per cent. Around 600 young people had been moved around the estate since mid-June because of overcrowding. He said: 'We are also seeing around 20 young people per week identified as vulnerable being placed into prison service custody. It is the aim of the board to place such youngsters in alternative accommodation – secure training centres or local authority secure units – which are better placed to meet their needs and respond to their often serious risk of self-harm.' The point where 'serious regime degradation will kick in' is fast approaching.

In 2004, the National Audit Office (NAO) report *Youth Offending: The Delivery of Community and Custodial Sentences (20)* said that the Youth Justice Board aims to reduce the numbers of young people in custody and release resources for prevention and early intervention. Over two-thirds of the YJB's

budget of £394 million in 2003–04 is for secure accommodation for the 7 per cent of young offenders sentenced or remanded to custody. The Board has to predict the effect of Intensive Supervision and Surveillance Programmes (ISSPs) and balance any savings against the risk that it might commission too few places, resulting in overcrowding or a higher number of movements around the estate, which NAO says was close to operational capacity in 2002. It says that limited capacity means that young offenders are often moved to provide places for new arrivals – there were 2,400 such moves between April 2002 and January 2003. While it is difficult to reduce the volume of moves, the detrimental impact of young offenders might be reduced if YJB and the Prison Service had agreed criteria for these. It recommended that the criteria should take account of age, gender and vulnerability. NAO recommended that the YJB, Prison Service and other providers of custodial places should develop a longer-term plan for developing the custodial estate, including the types of establishments required and where they might be needed.

The Audit Commission in *Youth Justice 2004: A Review of the Reformed Youth Justice System (21)* says that the juvenile prison population increased by about 40 per cent between 1992 and 1997 but has remained fairly stable since then at around 2,900.

However, in April 2004, Rod Morgan, the new Chair of the YJB, said that the Board had enjoyed moderate success in reducing the detention of children over the past 18 months but that figures were now continuing to rise. He said: 'We aim to have 90 per cent occupancy rate in our secure places but today the capacity was 99.5 percent full'. He attributed the rise to the number of remand prisoners, which had 'gone up steeply' and to children detained for breaching Antisocial Behaviour Orders. He warned that, when the numbers rose, the pressures were greater and the risks increased. He said:

*We need to persuade sentencers that there are credible, humane alternatives to custody. If numbers rise, we will face further problems.*  
(Community Care, April 2004)

### 3.3 The background of children and young people in prison

*Safeguarding Children* (6) described the vulnerability of young people in YOIs.

- Nearly 50 per cent had been, or still are, in local authority care, but many have lost contact with social services.
- Most have a very fractured educational experience and very significant learning needs and problems.
- Many have immense family difficulties.
- Many are discharged without anywhere to live.

A YJB/Prison Service presentation in November 2003 said that, in relation to 100 girls in five establishments and 2,500 boys in 14 male establishments:

- 40–49 per cent have a history of local authority care
- 40 per cent girls and 25 per cent boys suffered violence at home
- 33 per cent girls and 5 per cent boys report sexual abuse
- 50 per cent girls and 66 per cent boys report hazardous drinking
- 85 per cent show signs of personality disorder
- 66 per cent girls and 40 per cent boys report anxiety/depression.

On young women under 18 years old in the female estate, November 2003, it said:

- 12 per cent of the female juvenile population are pregnant
- three children have babies in an adult Mother and Baby Unit.

### 3.4 Boys

While, for boys, government policy has gone in the opposite direction to that urged by *People Like Us* (1) and by the, then, Chief Inspector of Prisons, Sir David Ramsbotham in *Young Prisoners: A Thematic Review* (22), some progress is being made in providing at least the policy framework for a more appropriate regime for them. Boys are now, on the whole, being held in under-18 units, though there are a number of split sites in which boys and young adults are detained.

*Rethinking Child Imprisonment* (23) says, for boys, the government response to Her Majesty's Chief Inspector of Prisons (HMCIP) recommendation was:

*... to attempt to transform Prison Service custody into a more decent, child-centred and constructive experience by creating 13 special prisons for 'juveniles', the 15–17 year-olds (younger children are in secure training centres or secure accommodation).*

The YJB was given responsibility for commissioning and purchasing places for children who are sentenced to custody and, within the Prison Service, a separate Juvenile Operational Management Group was established with a large injection of cash – £51 million for capital provision and staff training. It says that, since the introduction of Prison Service Order 4950 *Regimes for Prisoners under 18 Years Old* (July 1999), reports of inspections indicate great improvements but 'even when improved they still fall short of adequate'.

### 3.5 Girls

The position in relation to girls is very different. The Government accepts in principle that 15 to 16-year-old girls should not be held in prison but in Secure Training Centres and local authority secure units. In 1999, the Home Secretary said:

*The introduction of the detention and training order will allow for greater flexibility in the placement of sentenced young people. It is our intention to make use of this flexibility by placing sentenced 15 and 16-year-old girls in available non-Prison Service accommodation, when the detention and training order is in force. The first priority will be to place the youngest and most vulnerable young women outside the Prison Service. In the short term, arrangements within the Prison Service for holding 17-year-old women, and other young women for whom alternative accommodation is not available, will be improved by establishing discrete units for young women under the age of 21, with enhanced regimes within these.*

Plans to remove 15- and 16-year-old girls took longer to achieve than envisaged because:

- numbers of girls remanded to custody or given custodial sentences rose
- the number of girls in Local Authority Secure Children's Homes (LASCH) increased
- extra accommodation in secure units intended for girls had to be used for vulnerable boys (following the street crimes initiative and Lord Wolff's judgement on mobile phone theft).

In February 2003, the Youth Justice Board said it was committed to removing all girls under 17 from Prison Service accommodation during 2003 and this was achieved.

The position of girls in prison has been even worse than that of boys. There has been an 'appropriate regime' for boys in prison for several

years. This has not been the case for girls. Until recently, there has been no specialist provision or regime for them, since the intention is that they should be in local authority care not prison. In practice, over 100 girls are being sent to prison because of the shortage in secure accommodation. In *Rethinking Child Imprisonment: A Report on Young Offender Institutions* (23), the Children's Rights Alliance for England (CRAE) said:

*The main difficulty for girls under-18 at present is that, because they are floating in some kind of unofficial limbo within the Prison Service, they are not receiving the benefits of reforms for under-18s brought about by the YJB.*

There has been considerable concern about the situation of girls in prison. The YJB commitment to remove under 17-year-old girls from prison during 2003 followed a critical report on arrangements at Holloway prison, which said: 'We had specific and serious concerns about the small number of under 18 year olds held in Holloway'. No assessments of vulnerability and risk were being carried out, the regime was wholly inadequate, staff lacked essential documentation and no training plan meetings were taking place. The YJB said it was working closely with Holloway and the women's policy group on prisons to move sentenced girls on as quickly as possible and that, while alternative provision was being found, it would enter a Service Level Agreement with the Prison Service to ensure an enhanced regime for the small number of young women for whom a short stay cannot be avoided.

*Children in Prison* (17) says:

*In July 2002 there were 138 girls aged 15, 16 and 17 in prison. Whereas almost all the boys are held in designated juvenile-only units, girls continue to have to mix with older prisoners ... Prisons are ill-equipped to deal with young women, many of whom are damaged and who display challenging and difficult behaviour.*

A Howard League investigation found that a high proportion of girls under 18 in custody had experienced sexual, physical and emotional abuse, disrupted care, drug/alcohol abuse, poor relationships with parents and exclusion from school. Nearly a quarter of girls interviewed reported self-harming while in prison.

*Rethinking Child Imprisonment* (23) says that, because there are relatively few women's prisons, girls are more likely to be locked up at a distance from their homes. Girls are on average placed 60 miles from home compared with an average of 41 miles for boys; 48 per cent of girls are over 50 miles from home compared to 28 per cent of boys.

John Rea Price, Her Majesty's Inspectorate of Prisons (HMIP), February 2003, said the situation has been much more problematic for the 130–155 girls in the prison system. Specialised units are being developed at Bullwood Hall and Newhall, but the situation at Eastwood Park and Holloway has caused HM Inspectorate concern, particularly in regard to those held on remand.

*Safeguarding Children: A Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (6) said there were 'most serious concerns about the welfare of girls aged between 15 and 18 years held in custody'.

The *Child Protection and Safeguards Review* (24), by HM Prison Service Juvenile Group and the YJB, had a section on the 'female estate', which said the following.

- There were currently around 100 young women under 18 in five different establishments; 4 per cent of the juvenile population. In four of these, the girls do not have complete separation from young offenders on the wing. 'This alone makes these establishments unsafe in relation to the current safeguarding agenda.'
- But, in the past two years, all 15-year-old girls had been removed and 'the placement of the few 16 year olds is taken after

communication between the Head of Placements at the YJB, the Operational Office for Women's Prisons, Juvenile Group and the receiving establishment'.

- Funding for the female estate was provided in 2001 and four of the five establishments were able to meet the basic requirements of *Regimes for Prisoners under 18 Years of Age* (PSO 4950). The fifth, Holloway, was funded in 2003 to deliver regime enhancements.
- Female establishments hold not only children, but also children who are pregnant, children who have babies and, of course, adults with babies (Mother and Baby Units) and adults with children who are living in the community.

The Prison Service and YJB, May 2004, say girls are accommodated in discrete juvenile units within three of the women's establishments (Bullwood Hall, Eastwood Park and New Hall), which provide the standards as set out in PSO 4950. In exceptional circumstances, some girls are placed at Holloway, which works towards delivering the PSO 4950 standards but is not funded to do so. The Youth Justice Board and the Prison Service are working together to provide a dedicated juvenile unit at Downview by March 2005. The aim is to transfer girls from Holloway to the new Downview unit as soon as possible. Four other specially designed units for girls are expected to come on stream by January 2006.

YJB and the Prison Service have considered the need for a full or fuller separation of juvenile girls from older female offenders. They say many issues cannot be resolved by focusing simply on age limits. What should happen, for example, when a juvenile offender reaches the age of 18 while in custody? Should they be moved at once to other accommodation to ensure that juveniles are kept absolutely separate from those who reach the age of 18 during their sentence? How would that affect

the continuity of their training programme and sentence planning, through-care and resettlement links with the Youth Offending Team (YOT) supervising officer? These questions are particularly acute when the release date is very soon after the offender's 18th birthday. The fact that there are fewer juvenile girls in custody than boys creates practical problems in devising satisfactory arrangements for accommodating them. The aim of keeping them as close as possible to their families is in tension with the need to have groups of a reasonable size so as to provide a viable regime for the purposes of education and association. The outcome is the decision to build five new separate units for 17 year olds.

More generally, the level of maturity of individual juveniles does not necessarily match their ages. Focusing exclusively on age limits can undervalue the efforts the YJB and the Prison Service make to identify and provide for individuals' particular needs. Priority is given to addressing the needs of vulnerable offenders, whether girls or boys.

### 3.6 Remands

The situation in relation to remands to prison has got worse and is a problem that relates to girls as well as boys.

The Children's Rights Alliance for England in *State of Children's Rights in England* (18) says that the provision in the Criminal Justice Act 1991 to end prison remands for under 17s has never been implemented and that custodial remands and sentences were then available only for over 15 year olds (apart from 'grave' offenders). And, since September 2002, a new power allows courts to remand to custody 12 to 16 year olds who commit medium-level offences such as non-domestic burglary and vandalism if it is thought they would commit more offences on bail. This was previously only on application from social services under childcare legislation. It says the 2002 *Justice for All* White Paper (25) hints that there may be plans to

remand in custody even younger children – ten and 11 years old. CRAE says this raises three questions.

- Where would the child be placed for 48 hours while a court awaits a report from a local authority?
- Will secure accommodation be extended to this group and will secure accommodation be used for even younger children?
- Will this push even more teenagers into prison care?

Three-thousand one-hundred and thirty-one boys and 180 girls aged 17 were remanded in custody in 2000. CRAE says that, at the end of April 2002, there were:

- 340 untried boys (including 44 15 year olds) remanded in prison – a 37 per cent increase on the previous year
- 190 unsentenced boys remanded in prison; 31 per cent more than April 2001
- 16 untried girls remanded in prison and nine unsentenced girls on remand in prison; a 29 per cent rise from a year earlier.

CRAE said that a 2002 study by D. Lader reported that one in ten children in custody on remand had considered suicide in the previous week.

Although the situation has improved for the sentenced, John Rea Price of HMIP in 2003 said 'it remains generally lamentable for the remanded with failure to provide information about vulnerability, social and family circumstances'. However, in May 2004, he said there had been very significant improvements since the introduction by the YJB in 2003 of a custody planning specification for those on remand.

It is feared that matters may get worse in relation to numbers of remands with the extension, since September 2002, of remands to some 12 year olds. This will put further pressure on secure

accommodation and therefore result in more teenagers being remanded to prison. Indeed, extra pressure has been put on YOI resources following a recent increase in remands of young people who breach Antisocial Behaviour Orders.

The Audit Commission in *Youth Justice 2004: A Review of the Reformed Youth Justice System* (21) says, although young offenders on bail are less likely to offend, large numbers are still being remanded to custody, especially black and mixed-race young people. It says that up to 1,000 young people per year are remanded to custody or secure accommodation at a cost of £5 million per year because of a lack of somewhere suitable to live and YOT managers estimate over 800 young people receive a custodial sentence because their housing is unsuitable, costing at least £16 million per year. The Audit Commission believes that providing suitable accommodation for these young people would save about half of this sum.

Seventeen year olds are treated as adults for the purposes of remand and bail, in contravention of the UN Convention on Children's Rights. *Youth Justice – the Next Steps* (26) says that there will be legislation to treat 17 year olds as juveniles for these purposes.

The Juvenile Offenders Unit in the Home Office, 2004, says that 15- or 16-year-old boys may be remanded to prison only if the following strict conditions are met:

- the boy is charged with or has been convicted of a violent or sexual offence, or of an offence punishable in the case of an adult with imprisonment for a term of 14 years or more; *or*
- the boy has a recent history of absconding while remanded to local authority accommodation, and is charged with, or has been convicted of, an imprisonable offence alleged or found to have been committed while he has been so remanded.

In either case, the court *must* be of the opinion that only remanding the young boy to prison would be adequate to protect the public from serious harm from him. However, a court may still remand to local authority secure accommodation those boys who, because of their physical or emotional immaturity or propensity to harm themselves, should not be remanded to prison service accommodation.

The Prison Service and YJB say that arrangements are in place to ensure that the legal status of the unconvicted, and convicted but unsentenced, young people is fully respected, and that regime provision meets their needs arising from their particular circumstances. A remand management service, using seconded Youth Offending Team workers, has been introduced into establishments holding remanded juveniles, to ensure that appropriate plans and programmes are in place for them.

They say that remanded juveniles are expected to receive the full PSO 4950 regime in so far as their status as unconvicted or unsentenced allows. It may not, for example, be reasonable to expect an unconvicted young person to undertake offending behaviour work; or the shortness of the remand period may preclude the young person from participating in some of the programmes. The services provided for juveniles remanded to prison are set out in the Youth Justice Board's *Guidance for Remand Management in YOIs*, issued in June 2003.

*Juveniles in Custody* (27), a report by HMIP on a survey of juveniles in YOIs during 2001–03 found that, while 66 per cent of the respondents had been in prison for less than three months, 13 per cent had been held on remand for more than six months.

As of 18 March 2004, there were 169 remanded 15- and 16-year-old boys in prison. At the same time last year, the figure was 170. However, since the remand population turns over about 12 times in a year, the number of boys remanded over the year is more like 3,000.

### 3.7 Recent Government policy on imprisonment of children

*Every Child Matters* (11) has a section on 'Anti-social and offending behaviour', which talks of simplifying community sentencing and making use of a wider range of 'imaginative residential placements for young offenders, such as intensive fostering, including for 10 and 11 year old persistent offenders'.

In September 2003, alongside *Every Child Matters* (11), the Home Office published *Youth Justice – the Next Steps Companion Document to Every Child Matters* (28). It is interesting that this dealt exclusively with children and young people who get into trouble with the law, and made no mention of providing justice for children and young people who are victims of crime. It points out that 200,000 young people are dealt with by the criminal justice system each year. It proposes a simplification of the range of juvenile offences, in particular replacing nine non-custodial sentences by a broader Action Plan Order (APO), complemented by child behaviour and Parenting Orders. The powers strengthen a 'whole family' approach to tackle youth offending. The 'menu' of interventions for an APO include 'appropriate sexual behaviour', intensive fostering and mental-health treatment. Local authorities and YOTs are to work together to identify suitable community reparation projects and to consider the adequacy of local residential, resettlement and fostering accommodation.

A number of measures are proposed in relation to remands:

- courts to be required to consider and have rejected bail options before remanding a juvenile in custody
- encouraging alternatives such as remand fostering
- developing bail hostels in major cities

- guidance and a training programme to ensure pre-sentence reports are better targeted and always give courts realistic options
- legislating to treat 17 year olds as juveniles for the purposes of remand and bail.

On community and custodial sentences, the following measures are proposed.

- A new Intensive Supervision or Detention Order (ISDO) would provide alternative options for serious or repeat offenders. The court would first consider placing the young person on an Intensive Supervision and Surveillance Programme (ISSP); only if it decided that this would not be appropriate could it pass a custodial sentence. Young people sentenced to the custodial option under the ISDO would spend the first half of their sentence in custody and the second half under linked supervision in the community. The second half would focus on engagement with education, training and employment.
- Custody would remain where the offence(s) were so serious that only a physical restriction of liberty could be justified.
- The maximum Detention and Training Order for 12–14 year olds would be 12 months and remain at 24 months for 15–17 year olds. The minimum would stay at four months.
- Juveniles to continue to receive detention of equivalent length to adults for serious/grave crimes (though courts are required to make allowance for age when sentencing).
- Additionally, the Criminal Justice Act 2003 provides for violent or sexual offenders who are individually assessed as posing a significant risk of serious harm to the public to receive life or other extended detention.

On child protection, the following measures are proposed.

- Consideration to be given to improving the protection for children and young people held in juvenile custody.
- Girls and vulnerable boys to be moved to 'better quality accommodation within the custodial system'.
- Develop new-style custodial units nearer to major population centres.

On staff, the following measure is proposed.

- Improving skills and motivation of youth justice staff by putting 4,000 through a professional Effective Practice Certificate and providing 2,000 Access Awards and expanding the youth justice Advanced Modern Apprenticeship scheme.

*Youth Justice – the Next Steps: Summary of Responses and Government Proposals* (26) said the following.

- While welfare was an important consideration, the main purpose of a sentence for a criminal conviction of a juvenile was to prevent further offending; there would be legislation to clarify this.
- There would be legislation to treat 17 year olds as juveniles for the purposes of remand and bail.
- A new Juvenile Rehabilitation Order will replace eight current community sentences and Youth Justice Centres would provide a wider range of activities in support of the sentence, including counselling, sport, education (basic and life skills), training, employment and community service.
- The proposal for a new Intensive Supervision or Detention Order had been modified. The same two options – intensive supervision

and surveillance, or, in the last resort, custody – would be available to courts, but would now be offered as two separate sentences. An Intensive Supervision and Surveillance Order (ISSO) would be introduced as a 'robust alternative to custody'; young people sentenced to custody would continue to receive a Detention and Training Order.

- Self-contained units would be developed to separate girls under 18 from those over 18 in the longer term. New-style open and semi-open custodial units would be developed near to major population centres.

The Audit Commission, in *Youth Justice 2004* (21), says that Intensive Supervision and Surveillance Programmes (ISSPs) are a more constructive and considerably cheaper option for persistent young offenders than a spell in custody (£8,500 for a six-month ISSP compared with £25,400 for six months in a YOI), but they cannot be expected to reduce custody on their own. The report says:

*Some sentences deliver better outcomes and are less expensive than others. The most expensive and one of the least effective is custody. ISSPs have been introduced to improve community alternatives to custody and to keep persistent young offenders in their homes, in school, in training or in a job. We concluded that most persistent young offenders who might otherwise be sentenced to custody should receive an ISSP instead.*

It urged more early intervention and that mainstream agencies, such as schools and health services, should take full responsibility for preventing offending by young people.

In April 2004, the Home Secretary announced that £16 million would be spent on five new specialist units for teenage girls to end the practice of holding girls in women's prisons. This coincided with two reports from the Prisons Inspectorate and

the Office for Standards in Education (OFSTED) that raise concerns about girls in prison. Roy Walker, chair of the Secure Accommodation Network, said that this may be part of a longer-term strategy to use fewer beds in local authority secure children's homes.

### 3.8 Analysis on the number of children and young people in prison

In relation to the numbers of children and young people held in prison establishments, the trend has been in the wrong direction and matters are worse than when *People Like Us* (1) was published, particularly for girls and those remanded into custody. If detention of children is to continue, it should be minimised and kept to the shortest time possible.

It appears that the Government does want to reduce the number of children and young people receiving custodial sentences and to attempt effective intervention at an earlier stage. However, recent hopes that the rise in detention of children had plateaued appear to have been dashed. It remains to be seen whether the Government will quickly bring in the necessary legislation, and whether it will resource the changes proposed and pursue them vigorously enough to make any real impact on numbers given custodial sentences. Policies should also ensure that the number of children and young people imprisoned is reduced, and that they are detained for the minimum period necessary.

It is good that girls of 15 and 16 are no longer detained in prisons. While the plan to detain 17-year-old girls in separate units is an improvement on the existing situation, it would be far better to extend to them the policy of removing them from prison establishments. The number of girls involved is small and it should be possible to find a

more appropriate solution to the problem.

The undertaking to change the legislation to enable 17 year olds to be treated as juveniles for the purpose of remand and bail is welcome, as are the proposals for a wider range of supported accommodation for young people on bail or community sentences. This is urgently needed, as the Audit Commission has shown in *Youth Justice 2004* (21) that an important factor in decisions to remand to custody is the lack of suitable accommodation for these young people. These measures should be implemented as soon as possible and form part of a concerted effort to reduce considerably the number of remands to custody.

Overall, the conclusion remains that 'prison is no place for children'. Even with the improvements that have been made and are planned to the regimes under which they are held, and the intention to improve the safeguarding, health services and education that they receive, prisons cannot be expected to provide the positive caring environment that will improve the life chances of these young people and make a maximum contribution to preventing them re-offending.

The Government should undertake a fundamental review of the use and place of custody in society, and what the alternatives are. This should include the possibility of small, mixed-sex units, which are geographically spread so that children are not placed too far from their home areas and so that they can experience a more normal environment during their formative adolescent years. Children in such units should have the same rights and access to universal services such as health and education as all other children. Consideration should be given to transferring responsibility for all under 18 year olds in custody to DfES.

## B The conditions and rights of children and young people in prison

### 3.9 Evidence of continuing concern about children and young people in prison

The Howard League for Penal Reform believes that children in prison are routinely treated in ways that would trigger a child protection investigation for abuse.

*Safeguarding Children: A Joint Chief Inspectors' Report* (6) identified:

*... the safeguarding of young people in Young Offenders Institutions as a major concern. Previous inspections have highlighted the very serious nature of the risks many young people face in these institutions and the extent of self-harming behaviour. This contrasts with the reported good quality of care and protection of young people, including young offenders, in secure accommodation provided by social services.*

In his Foreword to *Rethinking Child Imprisonment* (23), Sir David Ramsbotham, a former HM Chief Inspector of Prisons, says:

*I hope that this report will, at last, prick the conscience of the nation. It is a national disgrace that the United Kingdom, the fourth richest country in the world, a nation known for the civilisation it has spread around the world, should have remained silent when confronted with the evidence of how its children are treated in prison.*

Mr Justice Munby in his judgement on the application of the Children Act 1989 to children in prison (29) said: 'the Howard League has performed a most useful service in bringing to public attention matters which, on the face of it, ought to shock the conscience of every citizen'. And 'there is material in these reports suggesting that some of these failings may be such as to give rise to actionable breaches of applicable human rights law'.

*Community Care*, 17–23 April 2003, reported the new minister for children and young people (then in the Home Office), Hilary Benn, as saying that visiting a secure juvenile establishment had been 'the most depressing moment of my life' and had motivated him to improve conditions: 'What we have done in the past is not acceptable and what we do in future must be better'. The biggest gap was the help and support available for people after release.

### 3.10 Conditions of children and young people in prison

*Children in Prison. Barred Rights* (17) says the following.

- The size of units and low ratio of officers to children means that staff are hard pressed just to provide supervision. Prison officers have virtually no specialist training in dealing with young people.
- The Howard League for Penal Reform is concerned about the attitude that some officers display towards children in their care. 'Prisons are characterised by high levels of intimidation, bullying and even assault ... The Prison Service Annual Report 2001/02 reveals that prisons holding juveniles had the highest rates of assault.'
- '... an unsafe prison is very damaging. Not only are the young people held there at immediate risk of harm but they are also likely to emerge with more deeply entrenched anti-social behaviour and attitudes, as well as a reinforced belief in violence as an appropriate means of resolving disputes.'

- ‘Since 1990, 22 children aged 15,16 and 17 have killed themselves whilst in prison ... Suicide prevention in prison tends to be mechanistic, with the emphasis on monitoring rather than engaging with vulnerable young people.’
- ‘Segregation is routinely used for children in prison ... in many institutions young people in segregation are locked in their cell for up to 23 hours a day and only allowed out to exercise. In essence it is a punishment. In any other setting this would be unlawful ... Such practices do not occur in local authority secure units ... Between April 2000 and April 2002, 976 children were held in prison segregation units for more than seven days.’
- ‘Young prisoners are restrained using exactly the same methods – termed control and restraint (C&R) as used in adult prisons. This is a pain compliant technique which if used by a teacher, a youth worker or any other person dealing with young people would be unlawful.’

*Rethinking Child Imprisonment (23) says:*

*... anyone who works in education and mental health systems knows that only chance has routed some children into open EBD schools or adolescent psychiatric units rather than a locked young offender institution or secure unit. The variation in resources, services, philosophy and label between these settings can mean a completely different experience and life outcome for the child concerned.*

John Rea Price, HMIP, says that, considering that it is a lottery which setting children go into, the discrepant costs between the alternatives are significant – £48,000 per annum in a YOI, about £163,000 in an STC and £185,000 in a Local Authority Secure Children’s Home (LASCH). There is also the question of the optimum size of the institutions. The HM Chief Inspector of Prisons has

reported several times that wings of 60 on campuses of 300/400 are too large to be safe and caring. On the other hand, living units of four, six or eight in LASCHs and STCs may be too small.

There are also serious issues concerning moves around the estate, which are extremely disruptive for young people, especially when these are unplanned, interrupt education and training programmes, and take them further away from family and other contacts.

### 3.11 Child safeguards and protection

It is clear that the welfare of children in prison is not being adequately protected and promoted.

*Safeguarding Children: A Joint Chief Inspectors’ Report on Arrangements to Safeguard Children (6)* said the following.

- We found the welfare needs of young people who commit offences were not being adequately addressed by those services responsible for their welfare. There were no national standards for the work of YOTs and there was no regular inspection of their work.
- In only one area was the work of the YOT integrated into the work of the Area Child Protection Committee (ACPC) ... Similarly, ACPCs were not engaging with the welfare of young people in YOIs.
- The work of YOT staff was rather detached from other services. The focus of their work was on offending behaviour, and they were not providing appropriate risk assessments in respect of these young people being placed in YOIs.
- We found very few referrals under the local child protection procedures being made to social services ... and could not be confident of the response to safeguard these young people.

- In contrast to the provision of council secure accommodation, the principles and requirements of the Children Act are not automatically applied to YOIs and other prison establishments.
- Arrangements for responding to, and investigating complaints by young people were not satisfactory.

The Report of the UN Committee on the Rights of the Child (30) criticised the UK's children's rights record and lamented the failure to extend the Children Act 1989 principles to those in the criminal justice system. It was extremely concerned at the conditions that children experienced in detention and that children do not receive adequate protection or help in YOIs (for 15 to 17 year olds), noting the very poor staff–child ratio, high levels of violence, bullying, self-harm and suicide, the inadequate rehabilitative opportunities, the solitary confinement in inappropriate conditions for a long time as a disciplinary measure or for protection, and the fact that girls and some boys in prisons are still not separated from adults. Other areas of concern were that children in custody do not always have access to independent advocacy services and to basic services such as education or adequate health care, and that young people of 17 years of age are considered adults for the purpose of remand.

The Committee's recommendations included:

- establishing 'a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular articles 3, 37, 40 and 39, and other relevant international standards in this area'
- ensuring that detention of children is used as a measure of last resort and for the shortest appropriate period of time, and that children

are separated from adults in detention and that the use of alternative measures to the deprivation of liberty is encouraged

- that every child deprived of liberty has access to independent advocacy services and an independent child-sensitive and accessible complaints procedure
- that all necessary measures be taken, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have an equal statutory right to education, health and child protection as other children.

### 3.12 Judgement on the application of the Children Act 1989 in prisons

Mr Justice Munby in his November 2002 High Court ruling on the Howard League for Penal Reform case<sup>1</sup> (29) on the application of the Children Act 1989 to children in prison summarised the law as being the following.

- The Children Act 1989 does not confer or impose any functions, powers, duties, responsibilities or obligations on either the Prison Service (or any of its staff) or the Secretary of State for the Home Department.
- In that sense the Act does *not* apply to children in YOIs.
- *But* the duties that a local authority would otherwise owe to a child either under section 17 or under section 47 of the Act do not cease to be owed merely because a child is currently detained in a YOI.
- In that sense the Act *does* apply to children in YOIs.

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<sup>1</sup> R. (*The Howard League for Penal Reform*) v. *The Secretary of State for the Home Department*.

- *However, a local authority's functions, powers, duties and responsibilities under the Act, and specifically under sections 17 and 47 of the Act, take effect and operate subject to the necessary requirements of imprisonment.*

He said that the policy set out in PSO 4950 was satisfactory and met obligations under Human Rights law. 'If its policies, plans, protocols and procedures can be implemented ... then children in YOIs will have small cause for complaint.' However, in relation to implementation 'the picture is much bleaker'. 'It can only be a matter of time ... before an action is brought under the Human Rights Act 1998 ... and such action will very likely succeed.'

He decided that some issues were matters of policy. These were as follows.

- Should the Children Act be amended either to make it apply to YOIs or to impose on the Prison Service an express statutory duty to promote the welfare of children in YOIs?
- Should the standards required in LASCHs also be required in YOIs?
- Should child protection work in YOIs be led by local authorities and other agencies such as the NSPCC?
- Should the Prison Service be fully integrated into the child protection system and local authorities allocate more time and resources to children in YOIs?

In December 2002, *Community Care* reported that funding for social service departments would not be reviewed in the light of the judgement. Hilary Benn, HO minister, said the Prison Service's policy would be 'amended slightly' because of the ruling.

*Regimes for Prisoners under 18 Years Old* (PSO 4950) is currently being revised and it remains to be seen what improvements there may be to the

safeguards for children in prison establishments as a result of this ruling that children there are entitled to the same welfare safeguards as other children.

### 3.13 Role of local authorities and ACPCs

*People Like Us* (1) said links with the community are arbitrarily severed for people in prison and that young offenders suffer particularly from the loss of immediate support from family and friends. It recommended action on the support social services authorities provide to children in penal settings and their families.

*Rethinking Child Imprisonment* (23) says: 'Responsibility for the welfare of children in custody is uneasily shared among different bodies, with none prepared to assume full responsibility'. It says that cumulative findings from inspectorate questionnaires show 'over a third of the 700 children had been in children's homes and/or foster care placements, and just under a half of these said this was for periods of over a year'. 'Sadly, we believe that local authorities are often derelict in their duties towards these children, behaving as though their responsibilities are ended (or at best massively diminished) once the child enters the criminal justice system.' This neglect is said to have been reinforced by the introduction of YOTs, 'which appear to be evolving away from their social services' origins and yet which cannot take full responsibility for the care and welfare of children who are not living with their families. We fully support the Chief Inspector's recommendation in *Young Prisoners: A Thematic Review* (22) that local authorities should pay the costs of all children in custody, as a means of making local communities more responsible for creating positive alternatives to custody.'

*Community Care*, 17–23 April 2003, reported on a Howard League conference at which Rachel Hodgkin of the Children's Rights Alliance said social workers were failing to fulfil their child

protection duties despite the High Court ruling last year. And Anne Owers, HMCIP, said she was worried about YOIs because ACPCs 'do not want to know' about them and children would 'fall down the gap' between social services and the Prison Service. But social workers said they were unable to influence the way children were treated in the prison system, partly because there were unclear procedures for making complaints about punishments meted out by prison officers.

*Safeguarding Children. A Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (6) said very few referrals to social services were found under the local child protection procedures and there was little confidence in the response to safeguard these young people. Generally, there was a lack of engagement of ACPCs with YOIs and the young people in them, despite the fact that there were large numbers of young people who were at serious risk of significant harm in them.

Following the Munby judgment (29), a cross-departmental task group was set up to discuss how Local Authorities with Social Service Responsibilities (LASSRs) should be enabled to carry out their duty of care to children in prison. The group recommended that advice should be given to Area Child Protection Committees, or their constituent agencies; and also that LASSRs that contain YOIs should devote permanent and significant ring-fenced staffing resources to provide services for children in YOIs. The YJB has since agreed to fund 25 social workers for juvenile establishments – one per 100 young persons. The strategy for deployment and recruitment will be decided during the 2004–05 financial year.

### 3.14 Children's rights and welfare

*People Like Us* (1) said it was impossible to meet the ordinary needs of children in prison.

### Health

*People Like Us* (1) said that children in custody have special health needs and that the NHS should be responsible for the health care of children in penal settings.

*Rethinking Child Imprisonment* (23) says that government documents mention the high level of diagnosable mental illness and substance misuse among the prison population aged under 21, sometimes putting this as high as 95 per cent, and that:

*... the Prison Service is taking the mentally ill children nobody else wants. However it is not just the Prison Service that is primarily failing to meet the mental health needs of imprisoned children ... Many, if not most, children in locked establishments have suffered neglect, ill treatment and violence, but few have received the treatment that is their right.*

It also recommends 'children in custody shall have a right to treatment and other measures to secure that they recover from any psychological hurt they may have sustained' and that 'Social Services should be charged with full responsibility for acting as a good parent for all children it is looking after who are locked up'.

The Audit Commission in *Youth Justice 2004* (21) says 'the provision of mental healthcare for young people in prisons is particularly poor'. There are up to 300 young people in secure establishments requiring transfers to specialised mental health facilities at any one time. Nationally there are only 28 secure NHS beds for young people with mental health problems with another 40 or so being developed or planned. It recommended:

*The Department of Health should ensure that better alternative mental health care facilities are developed for young people who are transferred from custody, with clear guidelines on which cases should be referred to outside specialists and which cases institutions should deal with themselves.*

A joint YJB/DH review of the health needs of juveniles is under way.

*Juveniles in Custody* (27) found in the survey of those in custody during 2001–03 that:

- over 15 per cent of boys and 16 per cent of girls admitted to alcohol problems but only 36 per cent of these boys and 58 per cent of the girls received help
- 28 per cent of boys and 40 per cent of girls had had drug problems, but only 45 per cent of these boys compared to 69 per cent of the girls had received help.

### Education

*Children in Prison. Barred Rights* (17) says the following.

- On 31 May 2002, there were 308 children under statutory school-leaving age in prisons in England and Wales.
- Children in prison have acute educational needs – over half of child prisoners function below the levels expected of an average 11 year old.
- Yet Howard League research shows they receive far less support or specialist provision than children in the community. Children in prison do not have the same entitlement to education as young people elsewhere. Legislation, such as the Education Act 1993 and the Education Act 1996, does not apply to prisons.
- Teachers in prison often lack the qualifications and experience to work with school-age children. All of the contracts to provide education in juvenile prison units are held by adult further education colleges.
- LEAs do not provide financial assistance for children with statements of special educational needs who are sent to prison, so

they do not have access to specialised teaching resources in prison.

*Rethinking Child Imprisonment* (23) says that Prison Order 4950 has tried to change the situation in which under 19 year olds in custody received little or no education by transferring responsibility for education to the Prisoners' Learning Support Unit at DfES. Young offender units are required to provide 30 hours of 'purposeful activity' every week, of which 15 must be education if the child is under school-leaving age. At the beginning of a detention and training order, there has to be a 'training plan conference' at which education staff and a representative of the child's local Youth Offending Team attends in order to identify specific objectives for the child to work towards and to screen for any special educational needs, particularly dyslexia. However, it also says 'All this would be useful if it actually occurred. Unfortunately the evidence suggests that the establishments are struggling to meet even the bare minimum in education.' The Inspectorate's recent report *A Second Chance: A Review of Education and Supporting Arrangements within Units for Juveniles Managed by HM Prison Service* (31), carried out jointly with OFSTED, found disappointing results, particularly with regards to tailored education plans and special educational provision, although there were patches of excellent practice, which showed what a huge difference effective education could make in the lives of these children. It said that 'Some of these deficiencies simply relate to a lack of resources'. *A Second Chance* (31) points out that the average spent on education for an under 18 year old in a young offender institution is £1,810, compared to £16,040 for a child in a secure training centre and £16,079 for a child in a local authority secure unit.

*A Second Chance* (31) found that:

- 73 per cent of the surveyed children in custody 'described their educational achievement as nil'

- 42 per cent and 36 per cent of a very large sample of juveniles had, respectively, numeracy and reading abilities of a seven-year-old child or younger
- for a total population of 240 (227 at the time of inspection), there were only 80 places in education and a maximum of 37 places in vocational training
- apart from a few jobs that had little or no training value, there was nothing else for young people to do.

### *Rethinking Child Imprisonment (23)*

recommended that, in addition to the rights set out in *Regimes for Prisoners under 18 Years Old*, children in custody should have ordinary rights to education that every child has under current education legislation, including the following.

- Responsibility for their education should belong to the Secretary of State for Education and the local education authority.
- Full right for assessment for special educational needs and provision to meet their assessed needs.
- Where children are looked after by the state before being locked up, any existing personal educational provision (for example, one-to-one literacy or numeracy tuition) should be continued for as long as they require it.
- Children who have started but not yet completed educational or vocational courses should be offered continuing provision on their release.

The Audit Commission, in *Youth Justice 2004* (21), says that a third of those entering custody had no education in the six months beforehand and many others had only part-time tuition. Only a quarter had any education, training or employment arranged within the first week after release and

over a half had no arrangements after a month in the community. It recommended:

*Schools should retain responsibility for the education of children and young people remanded and sentenced to custody. Funding should follow the pupil to the custodial institution and return to the school only when the child does.*

*Juveniles in Custody (27)*, on a survey of juveniles in YOIs during 2001–03, found that:

- 83 per cent of boys and 65 per cent of girls had previously been excluded from school
- 34 per cent of respondents said they needed help with reading, writing or maths but just over a quarter of these were not doing any education
- the proportion of boys involved in education ranged from 100 to 46 per cent in different institutions
- 72 per cent of boys and 91 per cent of girls were involved in some sort of education, with 34 per cent of boys and 10 per cent of girls involved in some sort of employment, which may have included skills training
- only 21 per cent of boys and 19 per cent of girls had a Connexions adviser.

*Girls in Prison: The Education and Training of Under-18s Serving Detention and Training Orders (32)* found that the establishments in which girls were held were unable to provide sufficient quantity and quality of training and education. Even though there had been noticeable and welcome improvements, girls received inadequate education, ill-suited to their needs. However, the provision was still better than they had received before custody, or would be likely to receive on return to the community. Many regarded their time in custody as a respite in a relatively secure and orderly environment and were ill-equipped for

their return to society, and inadequately prepared and supported when they did so. Some were discharged to bed and breakfast accommodation and the chances of re-offending were high. The two Chief Inspectors, David Bell of OFSTED and Anne Owers, HMCIP, went on to say:

*It remains our view that girls should not be held in Prison Service custody. While they are, the task of the Prison Service and YJB is twofold. First, they must continue to improve educational provision. But secondly, there must be continued support and opportunity for young women who have, perhaps for the first time, been able to develop and learn in a stable environment. This study shows that this is still not happening: the youth justice system, though much improved, is still failing this vulnerable and damaged group of young women.*

Rule 38 of the YOI Rules 2000 (Rule 32 of the Prison Rules 1999) provides that 'in the case of an inmate of compulsory school age, arrangements shall be made for his participation in education or training courses for at least 15 hours a week within the normal working week'. The YJB's national target is to provide young people in YOIs with 25 hours a week of education, training and personal development by 2005, rising to 30 hours a week by 2006.

The Prison Service and YJB, 2004, say their vision is to provide high quality centres of learning where the young people are held in secure conditions. The core principle is that learning and skills provided should be of the same standard as the best provided in mainstream schools and colleges. The YJB's National Specification for Learning and Skills, introduced to the Prison Service juvenile estate in early 2002, focuses on improving numeracy and literacy; ensuring continuity of mainstream educational placements; reintegration into full-time education, training or employment; increasing employability through practical and vocational activities; and learning

how to learn. Establishments are required to provide a range of activities, including learning and skills, vocational training, work, physical education, enrichment activities, access to the library and offending behaviour programmes.

### **Bullying**

*Safeguarding Children: A Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (6) said that the Inspectorate Annual Report for 1999–2000 described very serious levels of bullying among young people in YOIs and concluded that the emphasis of child protection procedures in YOIs should be on protecting young people from bullying. 'It is primarily bullying that leads many young people to consider and attempt suicide within these institutions.' An analysis of surveys in YOIs revealed:

- 24 per cent reported incidents of assault by other young people
- 14 per cent said they felt unsafe some of the time
- 6 per cent felt unsafe often.

In one YOI, there were over 700 reported incidents of injuries to young people over an eight-month period.

*Children in Prison. Barred Rights* (17) said 'Prisons are characterised by high levels of intimidation, bullying and even assault'. It said that, during 2001/02, the Prison Service had a target to record an assault rate of under 9 per cent but that prisons holding juveniles had the highest rates of assault. The average rate was 43 per cent and, at the worst performing prison (Ashfield), the rate was 74 per cent. It said one reason for the high number of assaults was the low level of supervision, with a typical ratio of officers to young people being one to 12 or 14.

*Juveniles in Custody* (27), on a survey of juveniles in YOIs during 2001–03, found that:

- about a quarter of all young people reported that they had received insulting remarks from staff
- over a third said they felt unsafe at some point during their time in custody
- boys were over three times more likely to have experienced control and restraint techniques
- significantly more boys said they had been insulted or assaulted by other young people.

The Prison Service / YJB *Child Protection and Safeguards Review* (24) found that all establishments have protocols for dealing with bullying. It is hoped that these will be further developed to ensure they become juvenile specific and not generic. A new Prison Service Order on Violence Reduction was introduced from April 2004.

### Listening to children

*Children in Prison. Barred Rights* (17) said:

*The importance of actively involving children in decision-making has been one of the core principles underpinning new initiatives to improve the quality of care for children looked after by local authorities. The prison service however has failed to embrace this agenda ... There are no formal mechanisms for children's views to be routinely heard.*

The purpose of the survey reported on in *Juveniles in Custody* (27) was to give young people held in custody the opportunity to comment on their experiences, how they were treated and the conditions in which they were held. The Foreword says it is a very important report and provides 'a unique insight' into the perceptions of children and young people held in Prison Service custody during 2001–03. It says it paints a very varied picture, where the young person's experience of custody was very different depending on where he

or she was held, and can only partly be explained by the differences in establishment type.

The Prison Service and YJB, 2004, say that the sentence-planning process is designed to enable each young person to participate fully in key decisions surrounding their time in custody and the arrangements for resettlement. Most, if not all, juvenile establishments now hold regular consultative meetings with trainee representatives, with some establishments producing a regular magazine in conjunction with the young people.

### Complaints and advocacy

*Safeguarding Children: A Joint Chief Inspectors' Report on Arrangements to Safeguard Children* (6) said: 'Arrangements for responding to and investigating complaints by young people were not satisfactory'.

*Children in Prison. Barred Rights* (17) said: 'Children in prison tend not to use complaints procedures ... most have little faith in the system, felt it was unlikely that their grievance would be satisfied and believed that submitting a complaint could even exacerbate the situation'. There has been a recent review of the prisons complaints procedure, and a new Prison Service Order issued, operational from July 2002. It should make complaints forms more readily available but the form is dense and there has been no adaptation for juveniles.

The Youth Justice Board has invited tenders for the provision of advocacy services in all the YOIs in England and Wales that hold children. Contracts are being awarded on the basis of eight regions. They have so far been awarded in Yorkshire / Humberside and the East; and the service was introduced to New Hall and Wetherby in December 2003, and to Bullwood Hall and Warren Hill in February 2004. These cover a quarter of the juvenile secure estate. The YJB plans to roll out the service in the remaining six regions by the end of 2004. There are already advocacy services in STCs and Local Authority Secure Children's Homes.

### Restraint

The UN Committee on the Rights of the Child (2002) (30) was 'particularly concerned' that, between April 2000 and February 2002, 296 children had sustained injuries following restraints and control in prisons, and at the use of solitary confinement. It recommended that the Government review the use of restraint and placement of children in juvenile detention and solitary confinement in prisons (*Community Care*, 10–16 October 2002).

The YJB is supporting a project by the Children's Residential Care Unit at National Children's Bureau (NCB) to highlight the range of practice in the use of control, restraint and physical intervention with children living away from home and the issues for both carers and children. It will report on the particular dilemmas within the secure estate.

The Prison Service/YJB, 2004, say that Governors are required to have arrangements in place to ensure that sanctions or measures that deal with the short-term problems of challenging behaviour are supported by positive action that tackles the causes of such behaviour and helps correct it. Force must be used only as a last resort and no more force than is necessary may be used. Only approved techniques may be applied. Methods of physical intervention with juveniles are currently under review by the YJB. The Prison Service is contributing to this by looking at a new method of control and restraint more suitable for the juveniles in its care. It is hoped that the outcome will be in line with what is considered appropriate for children and young people generally.

The question of appropriate methods of restraint is not limited to children in YOIs. In 2004 a 15-year-old boy in a Secure Training Centre died after being restrained.

### Leisure and recreation

*Juveniles in Custody* (27) shows the limited opportunities for children and young people in prison to socialise and exercise both inside and in the fresh air.

- Only 31 per cent of boys and 60 per cent of girls could go on association more than five times a week.
- Only 25 per cent of boys and 8 per cent of girls had access to a gym more than five times a week.
- Only 18 per cent of boys and 50 per cent of girls could go outside for exercise each day.

As with other areas looked at in the survey, there was considerable variation between institutions, with numbers able to go on association five times a week as low as 3 per cent in one YOI and those able to go outside for exercise each day being as low as 2 per cent in another.

### 3.15 Progress in improving standards

CRAE in *State of Children's Rights in England* (18) says that *Regimes for Prisoners under 18 Years Old* Prison Service Order 4950 is an attempt to bring children's prisons up to a civilised standard. Though there are definite improvements, it is still an 'unachieved goal':

*The Prisons Inspectorate continues to find poor conditions, high levels of violence, negligent health and mental health care and inadequate education and rehabilitative provision, with children still being essentially warehoused, abused and corrupted.*

Jeremy Whittle, Juvenile Group, Prison Service, May 2003, said prison staff working with children had no relevant training – but two weeks was now being added to the eight-week Prison Officer entry course for those working with children and young people.

John Rea Price, HMIP, 2003, said the Prison Service is only just beginning to develop specialist training for the Prison Officers it is recruiting to work with children. Some of these have excellent potential, but up to now the preparation for them in responding effectively to adolescent behaviour has been pretty lamentable. The problem is getting time out for training within the shift system.

Barry Goldson's article in *YoungMinds* (2003) acknowledges the wide-ranging set of reforms implemented by the YJB since April 2000 and the introduction of operational standards that are monitored, but says: 'there is little or no evidence ... to suggest that reforms, however determined and ambitious, will ever succeed in making prisons suitable environments for the children who fill them'. His research raises serious doubts about the efficacy of the reform process.

- The very concept of vulnerability in child prisons is too narrowly defined.
- The assessment process is seriously flawed, inexpertly executed and crucial information is frequently 'lost'.
- The very nature of the prison assessment process is ... totally unsuited to meaningful vulnerability screening.

He concludes that:

*Incarcerating children normally serves to damage them. It is an extraordinarily expensive form of intervention which is often unnecessary, and is almost always counter-productive. It amounts to child abuse at the extremes, and post-release reconviction rates suggest that victims of crime are exposed to heightened risk ... any objective reading of the evidence confirms this to be the case but in England and Wales we are deliberately neglectful of such evidence. The agenda before us – if we are serious about evidence-based approaches to child health, child welfare, youth justice and community safety – is not the reform of child incarceration but a determined*

*process of systematic reduction with the ultimate aim of complete abolition.*

*Rethinking Child Imprisonment* (23) makes a number of detailed recommendations for action on children in prisons. Some of its main recommendations are as follows.

- Both the establishment of a rights-based system and a complete overhaul of what is euphemistically known as 'the juvenile secure estate'.
- Children should only be locked up through the criminal justice system to protect others from serious harm.
- The number of locked places for children should be radically reduced.
- A welfare-based department of state (health or education not the Home Office) should have direct responsibility for the welfare of all children under 18 in locked units and for running the units.
- Local social, education and health services should have the same legal responsibilities for meeting the needs and rights of children in locked units within their area as they do for other children.
- Any difference between units that lock up children should relate solely to differing needs of the children; thus the current massive discrepancies of resourcing between secure units, secure training centres and young offender institutions should largely be eliminated.

The NSPCC *Review of Legislation Relating to Children in Family Proceedings: Consultation Draft* (33) said: 'If anything, the divide has deepened, with the common prevailing public view of children as either "victims" or "villains"'. An amendment to Section 17 of the Children Act 1989

is recommended to clarify the position of children who offend in relation to their status as children in need.

*Juveniles in Custody* (27) illustrates the wide range of experience of young people in different YOIs in relation to all aspects of their lives.

### 3.16 The Child Protection and Safeguards Review 2003

Initially, the YJB did little about child protection, but has recently started to address the issue. To identify and promote good safeguarding practice, the YJB and Prison Service Juvenile Group – together with representatives from HMIP, social services, the Social Services Inspectorate and Youth Offending Teams – began a review of current child protection and safeguards arrangements in all the Prison Service’s juvenile units in May 2003. A report, *The Child Protection and Safeguards Review 2003* (24), was launched in November 2003.

The review covered nine ‘practice areas’:

- 1 the prevention of suicide and self-harm
- 2 preventing harm from other young people
- 3 preventing harm from staff and other adults
- 4 impact of cell and building design
- 5 addressing the consequences of historical abuse
- 6 monitoring serious safeguards incidents
- 7 arrangements with the local ACPC and others
- 8 management arrangements for driving forward areas of work
- 9 training arrangements for safeguarding and child protection.

The report made 11 main recommendations and a number of more detailed ones on practice areas. The main recommendations were as follows.

- 1 The Prison Service and Youth Justice Board should develop a central *Child Protection and Safeguards Policy* exclusively for use in establishments holding children.
- 2 The Prison Service should undertake a comprehensive analysis of training needs of staff specifically working with juveniles, which should include all aspects of safeguarding.
- 3 The Prison Service together with YJB should develop (or commission the development of) a comprehensive modular *Child Protection and Safeguards Training Package* for staff.
- 4 The YJB should seek to reconfigure where possible in order to commission places in children-only sites.
- 5 In order to safeguard children on split sites, YJB and the Prison Service should work closely together to achieve maximum separation of children from adults and provide arrangements so that there is no cross-deployment of staff.
- 6 LASSRs that contain YOIs should devote permanent and significant dedicated staffing resources to provide safeguarding services for children held in YOIs, according to the principles in the joint ADSS, LGA and YJB report, *The Application of the Children Act (1989) to Children in Young Offender Institutions* (unpublished).
- 7 The recommendations of the above report should be implemented and an overview of that process should be maintained by those agencies involved in drafting.
- 8 DfES, with assistance of the Prison Service, Home Office and YJB, should issue national guidance to LASSRs and YOIs setting a detailed and comprehensive framework for their relationship.

- 9 Children looked after by the Prison Service should be accorded the same status and rights in law as children looked after by local authorities. This would further expand the local authority remit of support for these young people to that already experienced by children in other custodial settings, such as LASUs and STCs, and would include entitlement to Leaving Care Services under the Leaving Care Act 2000.
- 10 Integrated, co-ordinated safeguarding arrangements should be put in place within each YOI.
- 11 The Prison Service and the YJB should establish a Task Force, adequately resourced and financed, in order to cost and implement the recommendations of this Review.

The recommendations on preventing harm from staff and other adults include:

- standardising recruitment procedures to target people interested in and experienced in working with young people and introducing the recommendations in the Warner Report *Choosing with Care* (34):
- extending CRB checks to existing staff
- a central policy for dealing with allegations against staff, including a robust whistle-blowing policy
- providing an independent advocacy service.

Other issues that will be covered in the strategic *Child Protection and Safeguards Implementation Strategy* following the Review are:

- lack of mental-health support
- dangerous child offenders – Multi-agency Public Protection Arrangements (MAPPA)
- young people's views in decision-making.

By May 2004, the YJB, DH and DfES agreed the findings of the report and put these to the Prison

Minister. The Steering Group for the project is discussing costs with the YJB to decide how to implement the recommendations.

### 3.17 Analysis of conditions of children in prison

If children are to be in prison, every effort should be made to improve their life chances and to prepare them for release.

They should be treated as children first, rather than as criminals first. This is not only in keeping with the UN Convention on the Rights of the Child but also the sensible and practical long-term approach in order to improve the child or young person's chances of leading a fulfilled and successful life without recourse to criminal behaviour in adulthood. Nor is it inconsistent with the Government's intention to legislate to clarify that the principal aim of the youth justice system is to prevent re-offending – it is a question of how that is best achieved. It is unlikely to be achieved if the welfare of the child or young person is not protected. Prevention of further offending and welfare should be joint aims and included *together* in the legislation.

Efforts have been made to separate boys in prisons from adults and the recommendation in the *Child Protection and Safeguards Review 2003* (24) that the YJB should seek to commission places in children-only sites is welcome. This should be done as soon as possible. Insofar as split sites remain in use, it is very important that the recommendations for maximum separation of children from young adults (aged 18–21) and adults, and no cross-deployment of staff are implemented.

Attempts are now being made to provide more humane regimes for boys in prison establishments through Prison Order 4950 and, more recently, some action is being taken to apply this also in the prisons holding girls aged under 18. As Mr Justice Munby said (29), the real issue is the extent to which PSO 4950 is being implemented. Efforts should focus on ensuring that this is the case. In

order to make real progress in changing the culture of prison establishments holding juveniles, there must be a real investment in:

- recruiting staff with experience and expertise in working with children and young people in prisons, or at least who wish to do so
- ensuring all the recommendations in *Choosing with Care* (34) are fully applied in the selection of staff, including existing staff
- providing training on child development and child protection
- improving the ratio of staff to children and young people so that there is scope for more personal involvement and engagement.

The relevant recommendations in the *Child Protection and Safeguards Review 2003* (24) are supported.

The survey of young people in custody by HMIP (27) throws light on both their life in YOIs and the wide variation between institutions. As it says: 'It paints a very varied picture, where a young person's experience of custody was very different depending on where he or she was held', with differentials including:

- 99 per cent of girls in one establishment having daily access to showers, compared to 20 per cent in another
- the proportion of boys involved in education ranging from 100 to 46 per cent
- in some YOIs, 70 per cent of boys had access to association five times a week; in another, it was as low as 3 per cent.

The report says it is very difficult to compare institutions that are different in terms of size, location and population, but that these vastly different experiences of custody can only partly be explained through differences in establishment type. It also says that establishments holding the

smallest number of girls produced the most negative responses. These were not designed specifically for their populations and did not have the resources and facilities for juveniles.

The Home Office pointed out, in May 2004, that this report was based on a survey that took place between 12 and 30 months ago. During the currency of the survey, or since its completion, there have been a number of significant changes in the Prison Service juvenile estate, which, if the survey were repeated today, might well make some of the young people's perceptions more favourable – in particular, the introduction of the National Specifications for Learning and Skills and for Substance Misuse, improved staff training, the revision of the YJB National Standards and, not least, the much greater focus [following the Munby judgement (29)] on child protection and safeguards.

It would be helpful if the survey could be carried out on an annual basis to see whether this hope was borne out. Results would need to be available quickly so they could not be dismissed as out of date.

Both the Home Office and HMIP pointed out that the reality is that many children in custody are better fed and sheltered, and receive more medical attention than they would have done had they not been detained. A similar point was made in the context of education in *Girls in Prison* (32).

This is a sad reflection of life outside prison for some young people, but does not mean that their imprisonment is an appropriate solution. Even with the much needed improvements suggested in the *Child Protection and Safeguards Review 2003* (24), it is clear that prison is still not a suitable place for children.

Yet, while they continue to be detained there, a substantial injection of funds is needed if they are to be protected and safeguarded in prison and if their everyday needs are to be met. Funds to improve prevention and for early intervention are vital but should be provided as *additional* resources

not by reductions to an already inadequate budget or from predicted savings from an already impoverished regime for young people. There should be a levelling up of provision and facilities in the different custodial settings in which children may be held, not a levelling down.

Every effort must be made to improve the stability of placements for young people in custody and to minimise shuffling them around the secure estate to make way for new admissions. They need stability in order to benefit from programmes of education and health treatment and to build relations. Optimum size should also be considered with a view to providing a caring environment and enabling a wider geographical spread of units so that children are not placed too far from their homes and communities, and so that local authorities can retain their involvement. Smaller units and some spare capacity are likely to be needed.

Adolescence is a difficult time for all young people and particularly for those with the backgrounds and problems that are typical of young offenders. While custody may be needed for some young people, it should be in as open arrangements as possible, and should offer a full range of experience to help them to mature and socialise appropriately. Leisure and recreational opportunities are important as well as educational and vocational ones. In order to provide a more 'normal' environment in which young people can develop their social skills and learn appropriate behaviour, consideration should be given to providing mixed-sex units, particularly if this would enable provision to be made on a more local basis.

The amount of variation identified in *Juveniles in Custody* (27) in the quality of life that children and young people lead is unacceptable and needs to be addressed. The National Standards for Youth Justice Services, particularly National Standard 10 on Secure Accommodation, should be brought into line with the Minimum Standards for other secure institutions for children and young people.

Standard 36 of the National Minimum Standards for Children's Homes relates to Secure Accommodation and Refuges and says the outcome should be that 'Children living in secure units or refuges should receive the same measures to safeguard and promote their welfare as they should in other children's homes'. And 'Apart from the measures necessary to the home's status as a secure unit or refuge, children resident in secure units or refuges receive the same care services as they should in other children's homes'. The revised standards should be monitored and inspected against.

Local authorities have not been giving children in prison establishments the support they and their families need. This is most marked perhaps in the large number of cases where the children had previously been in care (estimated at up to a half). Many of the children who have killed themselves while in custody have been in the care of a local authority. The funding, by YJB, of social workers for YOIs is a welcome start but one social worker to 100 young people is unlikely to be sufficient. Local authorities need to accept responsibility for children from their area, particularly those who have been looked after. It is to be hoped that the High Court ruling will have some impact on the involvement of local authorities in the cases of these most vulnerable children as a matter of priority. This is an issue that the new Local Safeguarding Children Boards should address.

### Health

Following a period of partnership working, the funding responsibility for prison health services in England was transferred to DH from April 2003 but the process of transfer to the NHS will not be completed until 2006. There is no evidence from the work of the Prison Health Policy Unit and Task Force, which was set up in 2000, that any priority is being given to the health of children and young people in prison settings. It is recommended in our companion report that they receive priority.

The lack of appropriate mental health treatment for children and young people in prison is a part of the wider problems and inadequacy of Child and Adolescent Mental Health Services (CAMHS). Children in prison are among the most troubled and vulnerable, and DH needs to give urgent consideration to how NHS CAMHS might be improved for them. It should also ensure that all children in prison establishments are given routine health checks and dental and other treatment that is required.

Alcohol and drug use is a problem for many young people but only a minority are given help. This needs to be addressed so that all young people with these problems receive appropriate support.

It is encouraging that there is now a review under way of the health needs of juveniles in prison. It is hoped that it will be concluded speedily and appropriate resources provided to meet the identified needs – including treatment provided for those children and young people who have been abused or have sexually abused others, as discussed in Chapter 7 of *Progress on Safeguards for Children Living away from Home*.

### Education

Education for children in prison is a significant problem, particularly for those with special needs. The recommendations made by the Children's Rights Alliance in *Rethinking Child Imprisonment* (23) are supported – in particular, the ending of the statutory anomaly that children in prison do not have the entitlement to education that other children have, and the full transfer of responsibility for the provision of education for this group to DfES and local education authorities. It is also vital that educational and vocational provision remains available after release. The NAO report, *Youth Offending: The Delivery of Community and Custodial Sentences* (20), says that only 6 per cent of YOTs said the young person was able to continue education started in custody after release.

### After release

Efforts to improve and enrich the lives of children and young people while they are in custody need to be accompanied by efforts to help them at the time of their release and afterwards. They need help, where necessary, to find suitable accommodation, continue with their education, find employment, etc. Mainstream services, such as Connexions, should play a full part in providing for this group of young people when they are at their most vulnerable in order to give them a better chance of rebuilding their lives without re-offending. Arrangements should be made for health treatment and programmes of education started in prison to be continued after release.

### 3.18 Conclusions

The trend in the imprisonment of children and young people has moved in the wrong direction since *People Like Us* (1) was published. Recent government proposals may, if they are implemented quickly and properly resourced, begin to address this problem and reverse the trend but past experience gives little hope that this will be the case.

Insofar as children and young people continue to be held in custody, they need to be properly safeguarded and protected, and their wider welfare needs as children met. *Regimes for Prisoners under 18 Years Old* (PSO 4950) provides the right framework but action is needed to ensure that it is fully resourced and implemented in all settings in which children and young people are in custody, including girls in the Prison Service.

Recent action by the Youth Justice Board and the Juvenile Group of the Prison Service shows a willingness to address these issues and to instigate a programme of much-needed action to improve the present, very unsatisfactory situation. Considerable support and resources will be needed over a period of some years if this action is to have the desired results.

The recommendation by the NAO about a longer-term review of the custodial estate is supported. Such a review should have a major aim of ensuring that the necessity to move young people around the estate is greatly reduced. It should also look at the optimum size of units in order to maximise geographical spread so that children and young people are not placed so far from their homes. *Juveniles in Custody* (27) found that only 30 per cent of boys and 23 per cent of girls said it was 'easy' for family and friends to visit. About a quarter of the girls had not received a visit. At the same time, the units need to be large enough to provide the range of facilities required while small enough to be able to have a caring ethos. Other situations in which children and young people live are usually mixed-sex and there is a strong case for this being the norm for custodial placements also, particularly since many of the young people concerned have had difficulty forming relations in the past and separation from the opposite sex at a formative stage of their adolescence may further prejudice this for the future. The views of children and young people should be actively sought and taken into account in any review.

There needs to be much greater involvement of local authorities with children and young people in custody. In particular:

- local authorities should retain their corporate parenting responsibilities in relation to children and young people who have been in care
- local education authorities should retain responsibility for children and young people in their area who are committed to custody and ensure their needs, including any special needs, are met
- Local Safeguarding Children Boards should take an active interest in YOIs in their areas

- the recommendation in the *Child Protection and Safeguards Review 2003* (24) that the provisions of the Children (Leaving Care) Act be extended to children and young people leaving custody is supported.

However, the main conclusion is still that 'Prison is no place for children' and action should be taken, over time, to amend the law and to provide alternatives to imprisonment. While serious and sustained efforts are needed in the meantime to improve the conditions, safeguards and welfare of children in custody, this should not be seen as the long-term solution. In the longer term at least, it would be better for DfES to have responsibility for children in prison and to aim to ensure they are treated as children first – with the same needs as other children and young people – rather than as prisoners first.

### 3.19 Recommendations

1 The recommendations of the UN Committee on the Rights of the Child are supported, in particular:

- the UN Convention on the Rights of the Child should be fully integrated into the juvenile justice system.
- detention of children should be a measure of last resort and for the shortest appropriate period of time
- children should be separated from adults in detention
- alternative measures to the deprivation of liberty should be developed
- every child deprived of liberty should have access to independent advocacy services, and an independent child-sensitive and accessible complaints procedure

- all children deprived of their liberty should have the same statutory right to education, health and child protection as other children.
- 2 The Government should consider extending to 17 year olds the policy of removing girls from prison establishments.
  - 3 The YJB should review the size of custodial units with a view to determining the optimum size of units that can provide the range of services needed, yet be small enough to provide a caring environment and be well spread geographically. It should consider the introduction of mixed-sex units.
  - 4 Responsibility for under 18 year olds in custody should be transferred from the Home Office to DfES.
  - 5 The Government should bring in legislation as soon as possible to implement the proposals in *Youth Justice – the Next Steps: Summary of Responses and Government Proposals* (26) to treat 17 year olds as juveniles for the purposes of remand and bail, and to introduce the new Juvenile Rehabilitation Order.
  - 6 Urgent action is needed to provide alternatives to remand in custody. The Government should act quickly to establish bail hostels and explore the potential of remand fostering.
- 7 The Home Office should enable the Prison Service and YJB to implement the recommendations in the *Child Protection and Safeguards Review 2003* (24) as quickly as possible, providing the necessary resources to do so.
  - 8 Extra resources should be provided for local authorities to extend their corporate parenting role to children and young people in custody and for the application to them of the Children (Leaving Care) Act.
  - 9 The National Standards for Youth Justice Services, especially National Standard 10, should be brought into line with the Minimum Standards that apply in relation to children’s services, such as those for children’s homes, so that the same standards are applied for all custodial institutions holding children and young people. The revised standards should be monitored and inspected against.
  - 10 Surveys of juveniles in custody should be carried out annually to monitor whether the conditions in which they live are improving and the variation between institutions is diminishing.
  - 11 Treatment programmes are needed in prison and in the community for all children and young people – both male and female – who have sexually abused others. Continuing supervision is likely to be needed. Extra resources are required urgently for both treatment and supervision.

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# Glossary

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Operation Ore	Exercise initiated by the National Criminal Intelligence Service to investigate information supplied by US authorities about UK residents who had used credit cards to access child pornography websites.
ACPC	Area Child Protection Committee
ACPO	Association of Chief Police Officers
ADSS	Association of Directors of Social Services
APO	Action Plan Order
CAMHS	Child and Adolescent Mental Health Services
CPS	Crown Prosecution Service
CRAE	Children's Rights Alliance for England
CRB	Criminal Records Bureau
CYPU	Children and Young Person's Unit
DfES	Department for Education and Skills
DH	Department of Health
DSPD	Dangerous and severe personality disorder
EBD	Emotional and behavioural difficulties
HES	Hospital Episode Statistics
HL	The Howard League for Penal Reform
HMCIP	Her Majesty's Chief Inspector of Prisons
HMICP	Her Majesty's Inspectorate of the Crown Prosecution Service
HMIP	Her Majesty's Inspectorate of Prisons
HO	Home Office
ISDO	Intensive Supervision or Detention Order
ISSO	Intensive Supervision and Surveillance Order
ISSP	Intensive Supervision and Surveillance Programme
LASCH	Local Authority Secure Children's Home
LASSR	Local Authority with Social Services Responsibilities
LASU	Local Authority Secure Unit
LFF	Lucy Faithfull Foundation
LGA	Local Government Association
MAPPA	Multi-agency Public Protection Arrangements
NACRO	National Association for the Care and Rehabilitation of Offenders
NAO	National Audit Office
NASUWT	National Association of Schoolmasters and Women Teachers
NCB	National Children's Bureau
NPS	National Probation Service
NSF	National Service Framework
OFSTED	Office for Standards in Education
PLASC	Pupil Level Annual Schools Census
PSO	Prison Service Order
PSSRU	Personal Social Services Research Unit

SEN	Special educational needs
SOA	Sex Offenders Act 1997
STC	Secure Training Centre
VISOR	Violent and Sex Offender Register
YJB	Youth Justice Board
YOIs	Young Offender Institutions
YOTs	Youth Offending Teams

