Howard League for Penal Reform

Preventing the unnecessary criminalisation of children in residential care

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Overview

- Introduction to the Howard League
- Background to the programme
- What do we know?
- Childhood criminal records
- The National Protocol
- Overview of programme briefings
- Supporting children who have been arrested
- Questions and discussion

The Howard League for Penal Reform

- About the Howard League
- England and Wales, since 1866
- Less crime, safer communities, fewer people in prison
- Membership organisation
- No government funding

howardleague.org/membership/

The Howard League's Programme to end the unnecessary criminalisation of children in residential care

- The residential care programme developed out of our campaign to reduce child arrests

  - 2010: 245,763 child arrests
  - 2018: c. 70,000 child arrests

- The police reported that they were getting called out much too frequently by some children's homes for matters "*that a parent would not call the police over*"

Our strategic approach

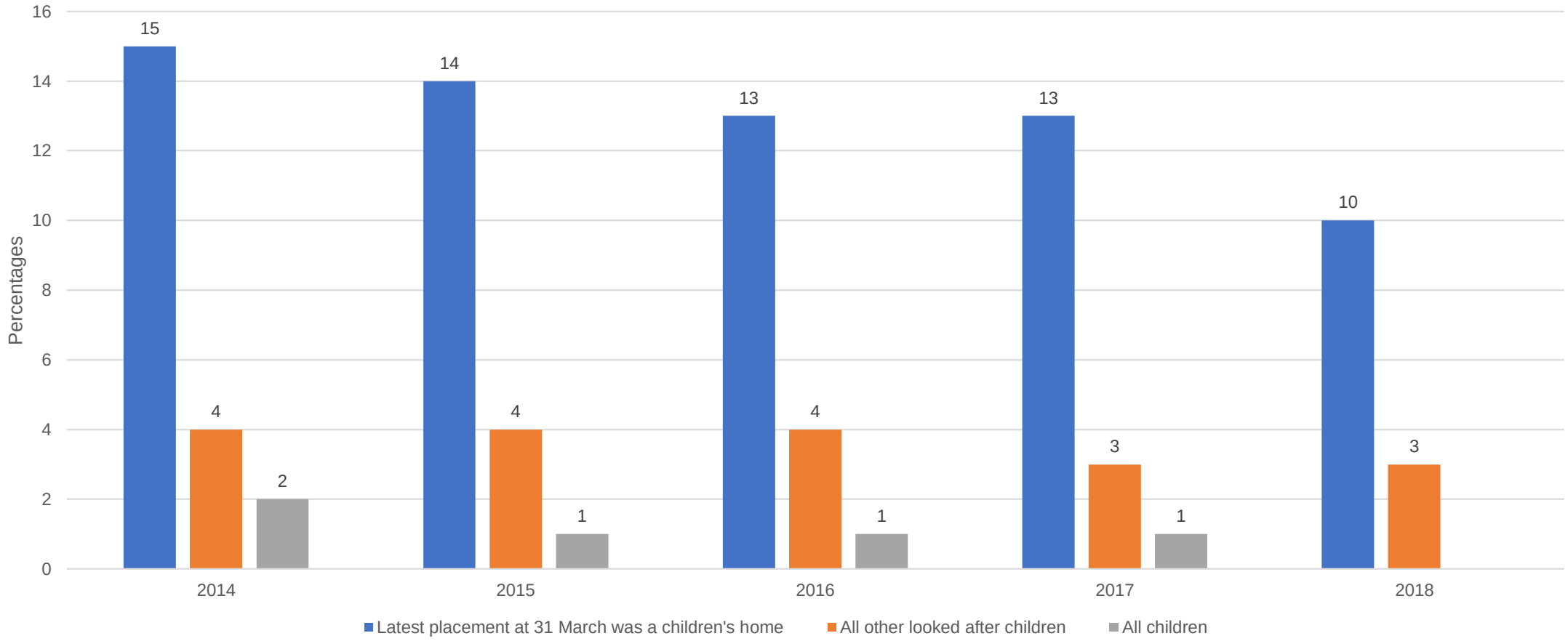
- Use of data to show the extent of the problem: Data helps people understand issues and “What gets measured gets done”
- Find out what factors cause criminalisation and what factors help protect and prevent children from being criminalised
- Collect and disseminate good practice from the residential care sector and the police to prevent criminalisation
- Improve safeguarding responses for children who are in danger

Headline findings

- Disproportionate criminalisation of children in residential care although recent data indicates significant improvements
- High levels of police call-outs from **some** children's homes
- Complex interplay of causative factors

National levels of formal criminalisation

Percentage of children who have been convicted or subject to a caution or conditional caution during the year: comparison between children in children's homes, looked after children in other placements types and all children



Data obtained through FoI request to DfE

High levels of call-outs from some CHs

- There are very high levels of police involvement with some CHs in England and Wales
- In 2018, almost 23,000 calls were made to 26 police forces
- Missing incidents account for nearly 50 per cent of calls

Data obtained through FoI request to all police forces in England and Wales

Police call-outs to children's homes: 2018

- 26 forces provided data
- They told us about 23,000 call-outs in 2018
- Over 50% of forces reported homes calling over 100 times a year
- A number reported homes that had called over 200 times in 2018
- Over half the call-outs related to missing incidents

High levels of police contact with some homes

- Some call-outs will be an entirely appropriate response by the home
- However, we know that some homes are calling the police for reasons a parent would not have called them for and that children are being unnecessarily criminalised
- There is a greatly increased likelihood of children in residential care coming into contact with the police
- High levels of demand have a huge impact on police resources

Causes of criminalisation

- Disadvantaged backgrounds and high levels of vulnerability
- Systemic issues in the care system e.g. placement instability, poor placement planning, lack of services
- Inadequate or inappropriate responses
- Every professional who comes into contact with the child has a part to play in protecting the child from criminalisation

Care experience and custody

- 44% of children in Secure Training Centres have spent time in care, with the highest number in one STC being 56%. Overall 39% of boys in Young Offender Institutions have spent time in care, within the range of 31% to 51% dependent on the YOI (HMIP 2018)

- 24% of a cohort of nearly 4,000 adult prisoners reported care experience (MoJ, 2013)

Childhood criminal records last a lifetime

- England has a particularly harsh and punitive childhood criminal records system.
- A record of a childhood caution or conviction, however minor, is kept on record for life (until 100 years) and can never be erased.
- Non-conviction information about children's contact with the criminal justice system, such as through a call-out to a children's home, is also recorded and held for a minimum of six years and a maximum of the child's lifetime. This is also potentially discloseable.

How criminal records are disclosed

- Four types of criminal record checks:
  - Basic check: discloses any “unspent” convictions and cautions
  - Standard check: discloses all convictions and cautions, spent or unspent
  - Enhanced check: discloses all convictions and cautions, as well as any police intelligence that is deemed to be relevant by the disclosure officer.
  - Enhanced with barred list. An enhanced with barred list check includes the same information as an enhanced check together with details of whether the individual concerned is on the lists maintained by the DBS of those barred from working with children and/or vulnerable adults
- In 2018/19 5.8 million DBS checks were carried out
- 4.2 million were for standard or enhanced checks

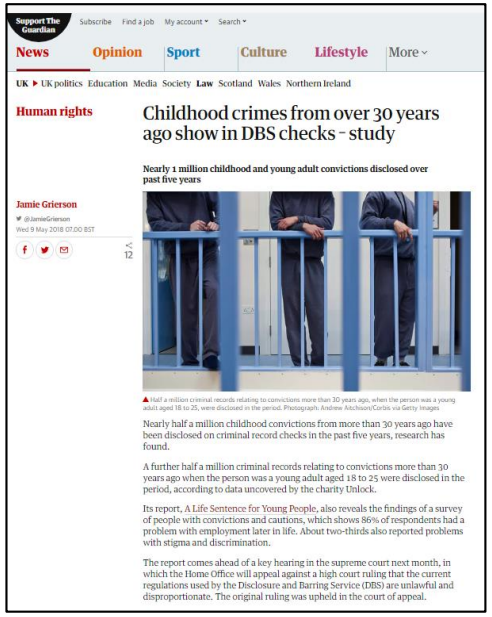
Disclosure of childhood records

- Nearly half a million childhood convictions from more than 30 years ago have been disclosed on criminal record checks in the past five years

- Relatively minor under-18 convictions are routinely and widely disclosed

- Between 2013 and 2015 under-18 shoplifting was disclosed 34,000 times

- Over 2,795 disclosures of under-18 convictions for theft of a cycle during that period



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Human rights

Childhood crimes from over 30 years ago show in DBS checks - study

Nearly 1 million childhood and young adult convictions disclosed over past five years

Jamie Grierson

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Wed 9 May 2018 07.00 BST

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▲ Half a million criminal records relating to convictions more than 30 years ago, when the person was a young adult aged 18 to 25, were disclosed in the period. Photograph: Andrew Aitchison/Corbis via Getty Images

Nearly half a million childhood convictions from more than 30 years ago have been disclosed on criminal record checks in the past five years, research has found.

A further half a million criminal records relating to convictions more than 30 years ago when the person was a young adult aged 18 to 25 were disclosed in the period, according to data uncovered by the charity Unlock.

Its report, A Life Sentence for Young People, also reveals the findings of a survey of people with convictions and cautions, which shows 86% of respondents had a problem with employment later in life. About two-thirds also reported problems with stigma and discrimination.

The report comes ahead of a key hearing in the supreme court next month, in which the Home Office will appeal against a high court ruling that the current regulations used by the Disclosure and Barring Service (DBS) are unlawful and disproportionate. The original ruling was upheld in the court of appeal.

Impact of a criminal record

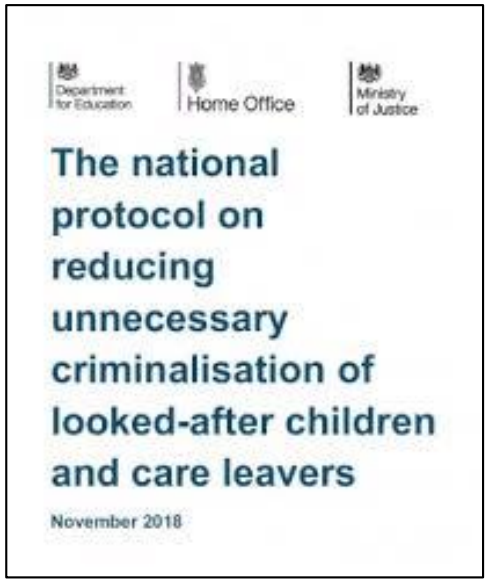
- Having a criminal record affects every aspect of your life:
  - Employment
  - Education
  - Housing
  - Travel
  - Insurance
- It can also affect physical and mental health and impact on relationships
- It prevents you from getting on in life, something which is even harder for a looked after child

National protocol

- The Protocol aims to "*encourage and provide a framework for agencies to co-develop local arrangements to reduce the unnecessary criminalisation of looked-after children and care leavers*".

- "*Although a criminal justice response will remain appropriate in a small number of cases, this framework is designed to prevent, unnecessarily, criminalising already highly vulnerable children and young people where possible. It sets out best practice for avoiding the criminalisation of looked-after children and care leavers up to the age of 25, and we encourage all areas to implement this as soon as possible.*"

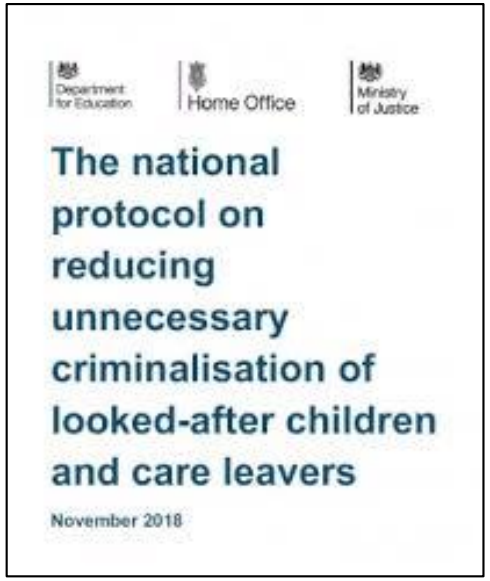
- Ultimately the question we must ask is: '*Would this be good enough for my child?'*


Department for Education | Home Office | Ministry of Justice

The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers

November 2018

National protocol


Department for Education
Home Office
Ministry of Justice

The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers

November 2018

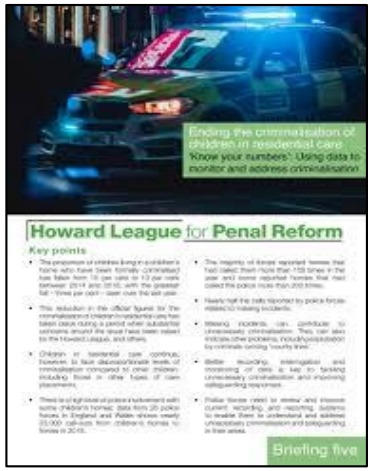
- The national protocol is aimed at:
  - local authority children's services
  - local care providers (fostering services, children's homes etc)
  - police forces
  - Youth Offending Teams (YOTs)
  - the Crown Prosecution Service (CPS), HM Courts and Tribunal Service (HMCTS), local Youth Panel (Magistrates)
  - local health services including mental health.

- Its key purpose is to encourage and provide the framework for these agencies to co-develop local arrangements to reduce the unnecessary criminalisation of looked-after children and care leavers.

Briefings

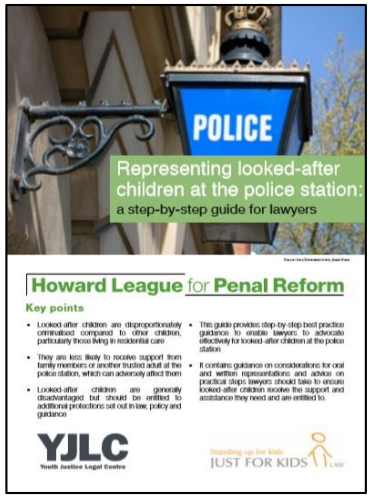
Ending the criminalisation of children in residential care
Briefing one
Howard League for Penal Reform
Key points

Ending the criminalisation of children in residential care
Briefing three: 'Hearts and heads' – Good practice in children's homes
Howard League for Penal Reform
Key points


Ending the criminalisation of children in residential care
'Know your numbers': Using data to monitor and address criminalisation
Howard League for Penal Reform
Key points
Briefing five

POLICE
POLICE
Ending the criminalisation of children in residential care
Briefing two: best practice in policing
Howard League for Penal Reform
Key points

Ending the criminalisation of children in residential care
'This is our story': Children and young people on criminalisation in residential care
Howard League for Penal Reform
Key points
Briefing four


POLICE
Representing looked-after children at the police station:
a step-by-step guide for lawyers
Howard League for Penal Reform
Key points
YJLC
Youth Justice Legal Centre
JUST FOR KIDS

Looked-after children in police custody

- "*Police station custody areas can be very frightening places for adults, and are all the more so for young people*." (HMI Constabulary et al, 2011)*

- "*Children in care tend to have harsher and longer experiences in police custody*" (Bevan, 2019)

- Looked-after children are less likely to receive support at the police station from family or other trusted adult which can affect their experience of custody and outcomes

- Looked-after children may have a range of additional needs and vulnerabilities

*HMI Constabulary with HMI Prisons, HMI Probation, the Care Quality Commission, the Healthcare Inspectorate Wales and the Care and Social Services Inspectorate Wales (2011) *Who's looking out for the children? A joint inspection of Appropriate Adult provision and children in detention after charge*. London: Justice Inspectorates.

Looked-after children in police custody

- Aimed at lawyers but of relevance to police, appropriate adults and anyone else supporting a child in care at the police station
- It emphasises the importance of children having a specialist youth justice lawyer
- Offers both legal and practical guidance to working with children in order to protect their rights, identify safeguarding and care needs and get the best and fairest outcomes for them

Carers can make a huge difference

- Good support from carers when the child is detained at the police station can:
  - Help alleviate the distress caused to children by being held in police custody
  - Prevent matters from escalating
  - Help divert children from a criminal justice outcome
  - Identify safeguarding issues such as exploitation

The carer's role

- Carers can, if the incident did not take place in the home and they are not involved in any way, act as the child's Appropriate Adult
- Even if they cannot fulfil this role, they can still support the child's solicitor and the appointed Appropriate Adult
- They can make sure people are aware that the child has accommodation to go to so that they are not held longer than is necessary or overnight
- They can make sure the child receives support when they come home
- Children say that knowing someone cared made a huge difference at the time and into the future

www.howardleague.org

- We have a programme website

https://howardleague.org/our-campaigns/programme-to-end-the-criminalisation-of-children-in-residential-care/

- And a blog

https://howardleague.org/criminal-care/

- We'll publish briefings in 2020 on child criminal exploitation and ethnicity

Thank you for listening!

- Questions and discussion