ESTABLISHMENT OF A REGIONAL CARE AND JUSTICE CAMPUS: CONSULTATION RESPONSE

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Having conducted research and consultations with children in secure care and in conflict with the law in Northern Ireland over the last fifteen years, I welcome this opportunity to respond to the Consultation about the establishment of a regional care and justice campus. However, it is disappointing to note that:

- the proposals are based on reform of existing systems rather than a re-visioning of responses to the most vulnerable children with complex needs
- the focus is more on operation and governance arrangements than on key issues raised by children over the last decade about their experiences of secure care/ custody, and the support they have identified as necessary to address their needs
- despite the inclusion of some quotes from international standards, the proposals are not clearly rooted in children's rights - protection/ promotion of children's rights extends beyond limiting deprivation of liberty to include implementation of the general principles (non-discrimination; best interests of the child as a primary consideration; right to life, survival and development; 'participation') as well as the civil, political, social, economic rights, and special protections, established in the United Nations Convention on the Rights of the Child [UNCRC], relevant General Comments,[1] and other human rights standards.[2]

CONTEXT OF POLICY AND PRACTICE REGARDING VULNERABLE CHILDREN

Given the relatively small number of children in secure care and custody each year, it is difficult to understand how the needs of these individuals are consistently not being met by the range of agencies involved in their lives. While appreciating that this is not solely an issue in Northern Ireland, the fact that some individual children are repeat

[1] See, for example, General Comments on: adolescent health and development (CRC, 2003); implementation of the rights of the child during adolescence (CRC, 2016); implementing child rights in early childhood (CRC, 2005); children's rights in the child justice system (CRC, 2019); the right of the child to be heard (CRC, 2009); the right of the child to have her/his best interests taken as a primary consideration (CRC, 2013).

[2] Including: the 'Beijing Rules' for the administration of juvenile justice (OHCHR, 1985), the 'Riyadh Guidelines' for the prevention of juvenile delinquency (OHCHR, 1990a), the 'Havana Rules' for the protection of juveniles deprived of their liberty (OHCHR, 1990b), the 'Tokyo Rules' for non-custodial measures (OHCHR, 1990c).

admissions and/or move from one secure institution to the other is an indication of *ineffective responses to their vulnerabilities*.

Over the years, young people have clearly articulated the difficulties they face, their experiences of secure care and custody, and their suggestions about what support they need or could have benefitted from at an earlier stage. As Gough (2018) commented in her reflections on a decade of secure care in Scotland: 'I am left wondering why our most frequent answer to ethically complex and vexing issues which affect the most marginalised and vulnerable young people is to *'review'* and research the question – when generations of young people have already shown us the way'.[3] The same problems are identified every time children are consulted about their experiences of secure care and custody. Failure to address the issues they raise is disrespectful to those who engage in these processes and indicative of a 'tickbox' approach to consulting children rather than a commitment to listening to what they say then acting on their views and suggestions.

Furthermore, despite the amount of time, effort and resourcing involved in the process, when reviews are conducted subsequent recommendations are often not implemented. For example, despite a Ministerial target to implement 90% of the agreed recommendations made in the comprehensive 2011 *Review of the Youth Justice System in Northern Ireland* by March 2014, only 59% were achieved. In its second and final report monitoring progress, the Criminal Justice Inspectorate stated that the significant amount of work undertaken since acceptance of the recommendations in 2012 'had stalled by 2014' (CJINI, 2015a: 63): the latest DoJ update was in January 2014, the DoJ Youth Policy Team that co-ordinated agency responses was no longer in place, the role of the Criminal Justice Officer in the DHSSPS was no longer funded from April 2015, implementation of the Review recommendations was no longer a standing item on the agenda of Reducing Offending Programme Board meetings. The Inspectorate concluded: 'All of this indicated a *loss of momentum* in implementing the recommendations of the Review Team' (ibid: 9, emphasis added). Many of the recommendations made by the 2014 Marshall Inquiry: *Child Sexual Exploitation in Northern Ireland* remain outstanding. Over the intervening period, four rounds of progress reports have been published yet serious concerns relating to full implementation of the Inquiry recommendations have been expressed by the Northern Ireland Commissioner for Children and Young People (NICCY, 2018a), Judge Gillen (2019), and the Criminal Justice Inspectorate (CJINI, 2020).

Rather than focus on reorganising the secure estate and reforming existing delivery of juvenile justice/ secure care services in Northern Ireland, emphasis should be placed on addressing the needs *and rights* of children in care or in conflict with the law. If the

[3] See: Goldson (2002), Children's Rights Director for England (2009), Justice Studio (2014), Children's Commissioner for England (2018) in relation to England and Wales; Barry and Moodie (2008), Gough (2017) in relation to Scotland; Sinclair and Geraghty (2008), Haydon (2009; 2016), Millen and Macdonald (2012), Archibald (2018), Walsh (2020) regarding Northern Ireland.

children are the starting point, the services they require (and the necessary skills/ approaches of those working with them) are more likely to appropriately respond to their needs and enable realisation of their rights. Not only will this reduce their vulnerabilities and risk of harm to themselves or others, but also it will improve the potential for positive outcomes in all aspects of their lives - both currently and in the future - contributing towards achievement of the outcomes identified in the cross-departmental *Children and Young People's Strategy 2019-2029.* Operational logistics, staffing needs, legislative requirements, governance arrangements are important elements of the framework constructed to respond to vulnerable children. But their needs, and their views about how these could best be addressed, must be central.

For many adults, promotion of children's rights often implies restrictions on adult intervention and prohibition of certain actions which they perceive necessary to ensure 'discipline' or 'protection'. In fact, rights-based approaches focus on acknowledging the special protections that should be afforded to children as a result of their inherent and structural vulnerabilities and the importance of their participation in decision-making processes (while recognising their evolving capacities), as well as their entitlements to the rights articulated in the UNCRC and other international human rights standards.[4] As specified in UNCRC Articles, all children require an adequate standard of living for their physical, mental, spiritual, moral and social development; access to physical and mental health services as well as primary and secondary education; rest, leisure, age-appropriate play and recreational activities; protection from physical or mental violence, injury, abuse, neglect, maltreatment or exploitation. Support should be provided for parents in the performance of their child-rearing responsibilities, with assistance to secure the conditions necessary for the child's development and provision of alternative care where necessary. Of particular significance to the most vulnerable children are special protections regarding neglect and abuse; substance misuse; sexual exploitation and abuse; torture or other cruel, inhuman or degrading treatment or punishment; and deprivation of liberty.

International standards establish the *fundamental principles* of furthering the well-being and development of the child, reducing the need for intervention under the law, and promoting the child's welfare to the greatest possible extent. UNCRC Article 39, and the UNCRC Optional Protocol on the sale of children, child prostitution and child pornography, emphasise provision of appropriate assistance to victims of neglect, abuse, exploitation, inhuman or degrading treatment, with the aim of supporting their social reintegration and physical/ psychological recovery 'in an environment which fosters the health, self-respect and dignity of the child'. Additional standards detailing the rights of children in conflict with the law, include: the 'Beijing Rules' on the administration of juvenile justice (OHCHR 1985); the 'Riyadh Guidelines' on the prevention of juvenile delinquency (OHCHR, 1990a); the 'Havana Rules' outlining the

[4] See: Haydon (2008; 2012).

rights of children deprived of their liberty in detention facilities and institutional settings from which they are not permitted to leave at will (OHCHR, 1990b).[5]

Current responses to children whose behaviours are challenging and potentially harmful generally focus on *deficits* rather than an individual's strengths and resilience. In fact, many of these children have had to be extremely resilient during their childhoods as they cope with difficult family relationships, poverty and living in the most disadvantaged communities. Many, in particular looked after children, have developed knowledge and skills to face hardship and abuse or neglect, taken care of siblings or parents, negotiated with various agencies involved with their families, and demonstrated the capacity to take on significant responsibilities. These experiences reinforce a 'survivor' identity - they behave in ways they consider essential to surviving and see themselves as survivors who have to look after themselves and be self-reliant because, as they see it, they cannot rely on others to ensure their wellbeing (Day et al, 2020).

The *adults* responsible for their care, protection and support have often not fulfilled this role during the childhood and adolescence of vulnerable children. For some parents, their parenting capacity is compromised by their own experiences of childhood adversity and trauma, domestic violence, poor mental health or substance use. Rather than 'blaming' or criticizing these parents, services need to support them to recognise and access support to deal with the issues they face as well as to develop appropriate parenting skills. Thus, unless potentially harmful to the child, whole family interventions are necessary (Haydon, 2014). Some children observe and learn 'norms' and potentially harmful behaviours concerning drink, drug use, sexual harassment, inter-personal and inter-community violence from the adults in their families and communities. Others are targeted by adults who take advantage of their vulnerabilities to involve them in harmful activities (including drug use/ dealing, sexual exploitation and offending). Adults must be held accountable for their actions and, where relevant, prosecuted for offences involving abuse and exploitation. It is also the responsibility of adults in the statutory, voluntary and community organisations working directly with children to identify and address the unmet needs underpinning challenging or harmful behaviours while promoting and protecting children's rights.

A *responsibilising* approach has dominated responses to children perceived to require intervention over the last twenty years, implying that an individual's circumstances and behaviours are the result of 'choices' on their part (Kemshall, 2008; 2010). For example, the language used in discussion about sexual exploitation often includes reference to girls "putting themselves at risk" or "not keeping themselves safe", with a focus on changing or regulating the child's behaviour rather than responding to exploitation of her vulnerabilities by adults. The low age of criminal responsibility means that, at 10 years of age, children are held responsible for actions defined 'offences'. This is significantly lower than the age at which they can legally assume

[5] See: Haydon (2009; 2016)

other social responsibilities and 'unacceptably low' according to the UN Committee on the Rights of the Child [CRC] (CRC, 2019: para 22). Although it is important to help children take responsibility for their actions (particularly if these are harmful to themselves or others), this should be separated from criminalisation, shaming and stigmatising – recognising that 'the most challenging young people … are those requiring the most nurturing' (McAra and McVie, 2010: 200).

Children's involvement in 'high risk' or harmful behaviours elicit regulatory responses, which can evolve into a process of *criminalisation* (evidenced in the over-representation of looked after children in custody and 'pragmatic criminalisation' when a secure care placement is not available). This demonstrates what Sharland (2006: 251) defined an 'elision between the agendas of care and control'. Regulation of harmful behaviours, including through deprivation of their liberty as a form of 'protection', reinforces what children perceive to be punitive interventions.

In addition to context-specific 'situational' vulnerabilities caused or exacerbated by personal, social, economic, political and environmental conditions, many children in secure care and custody experience what Mackenzie et al (2014: 7-9) term 'pathogenic' vulnerabilities which are generated by 'morally dysfunctional or abusive interpersonal and social relationships and socio-political oppression or injustice'. Mackenzie et al argue that pathogenic vulnerability may also occur 'when a response intended to ameliorate vulnerability has the paradoxical effect of *exacerbating existing vulnerabilities or generating new ones*' (ibid: 9, emphasis added). As Filippeschi (2014: 11) states, detention 'rarely responds to children's individual characteristics and specific needs. Indeed, it often intensifies their vulnerability, exposing them to numerous types and situations of risk'.

The criminal justice/ health and social care systems cannot address the *structural inequalities* which have perpetuated and widened social, economic, health and educational disparities; affecting the circumstances and opportunities available to all children but particularly the most vulnerable and disadvantaged. However, understanding about the contexts in which they have lived and the range of issues negatively impacting on the childhoods of these children is vital. Also important is awareness of the ways in which the structural determinants of class, 'race', gender, sexuality, ability and age underpin expectations of, and responses to, particular groups. Policy development and professional practice informed by such understanding is likely to be less judgmental and stigmatising, to avoid the perpetuation of negative stereotypes or victim-blaming, and to enable promotion and protection of children's rights (Haydon, 2018; 2020b).

RESPONSES TO CONSULTATION QUESTIONS

The following responses to questions in the Consultation Document highlight on-going and current issues or concerns, relevant international standards, and suggested actions required. Based on my research and publications regarding children in conflict with the law and secure care, I have focused on questions relating to the proposed Secure Care Centre, admissions, the establishment of a multi-agency Panel, services in the campus, use of a needs-based approach, 'exit planning', development of a step-down unit and 'satellite' provision.

Using the UNCRC definition of a 'child', reference to 'children' includes anyone under the age of 18. Although 13-18 year olds generally prefer the term 'young person', use of 'child' reinforces the fact that all under-18s are entitled to the rights articulated in the UNCRC and other international human rights standards.

THE PROPOSED SECURE CARE CENTRE

The proposal that the Secure Care Centre will comprise the existing Lakewood and Woodlands sites

It is regrettable that the proposals in the Consultation Document focus on reform of existing provision and 're-purposing' of the secure estate rather than consideration of a completely different way of responding to the complex needs of Northern Ireland's most vulnerable and disadvantaged children.

A small number of children may require a safe, secure, therapeutic environment for a short period, focused on ensuring their safety, achieving emotional and behavioural stability and preparation for living in the community. However, United Nations *Guidelines for the Alternative Care of Children* (UN General Assembly, 2010) envisaged that states should refrain from institutionalising children who are in need of care, protection, education, rehabilitation or treatment. Reinforcing these Guidelines, the 2019 *Global Study on Children Deprived of Liberty* recommended:

> 'States shall develop and implement a strategy for progressive deinstitutionalization which includes *significant investments in family and community-based support and services*. States should *prioritise a closure of large scale institutions* and *avoid the creation of new institutions*' (Nowak, 2019: para 127, emphasis added).

Action required

Rather than placing all of the most vulnerable children together in a single Care and Justice Campus in Bangor, it would be more appropriate to develop a continuum of multi-agency community-based services and support. Part of the current costs of operating both Lakewood and Woodlands could then be re-directed to funding a range of provision - from earlier intervention initiatives to small residential units for up to 4

individuals requiring intensive support - to meet the needs of vulnerable children in each Trust area.

It may be necessary to maintain a small Secure Care Centre for the few children who cannot be supported in their local communities because they present such a risk of significant harm to themselves or others, or because of the nature of their offences/ behaviours.

The proposed capacity of the Secure Care Centre

At any specific time, the maximum number of children who can be accommodated in the existing Secure Care Centre is 16. The Juvenile Justice Centre [JJC] is able to accommodate 48 but staffed to operate at a level of 36 children, although the average daily population in 2018/19 was 18 (Consultation Document, p10-12). These figures suggest that the numbers who may require temporary secure accommodation on any day are approximately 34 (52 at most). During 2018/19 the maximum number of children in both facilities at any one time was 46 (Consultation Document, p20).

However, the majority of children currently admitted to the JJC - under PACE or on remand - should not be detained in custody, and provision of additional support in communities should further reduce requirement for secure placements.

Action required

Development of alternatives to custody for children currently admitted to the JJC under PACE or on remand.

Provision of additional support within communities for vulnerable children, in particular earlier intervention.

The longer-term aim of reducing the overall capacity within the Secure Care Centre, so that no child will be placed in a house with any more than three other children

International standards

Havana Rule 30 states that ‘open detention facilities for juveniles should be established’ (i.e. ‘those with no or minimal security measures’), in which the population ‘should be as small as possible’. The number of young people detained in closed facilities ‘should be small enough to enable individualised treatment’. This Rule affirms that small-scale detention facilities should be established, which are ‘integrated into the social, economic and cultural environment of the community’; facilitating access and contact between detained young people and their families.

Action required

While agreeing that the maximum number of children in any particular form of secure environment should be four, rather than being placed in a house within a Secure Care Centre the majority of vulnerable children should be accommodated in community-based intensive support units, preferably within their Trust area.

ADMISSIONS TO THE SECURE CARE CENTRE

Admissions criteria

The Consultation Document emphasises that detention of a child should be 'used only as a measure of last resort and for the shortest possible time' (UNCRC, Article 37b), with deprivation of liberty 'limited to exceptional circumstances' (Havana Rule 2).

Secure Care

Under the provisions of Article 44 of the *Children (Northern Ireland) Order 1995*, a child being looked after by a Health and Social Care [HSC] Trust may be placed in secure accommodation (ie accommodation provided for the purpose of restricting liberty) if s/he has a history of absconding and is likely to abscond from any other type of accommodation and, if s/he does abscond, is likely to suffer significant harm; or s/he is likely to injure him/herself or other people if kept in any other type of accommodation. Children Order Guidance and Regulations emphasise that restriction of liberty 'is a serious step which must be taken *only when there is no appropriate alternative* … a "last resort" in the sense that all else must first have been comprehensively considered and rejected' (DHSS, 1996: para 15.5, emphasis added). It should never be used because there is no alternative placement available, as a result of inadequacies in staffing, because the child is simply being a nuisance or runs away from their accommodation, or as a form of punishment (ibid).

Although the total number of admissions to the Secure Care Centre have fallen (from 50 in 2014/15 to 38 in 2018/19), there have been around 35 admissions per year since 2016 (34 in 2016/17; 35 in 2017/18; 38 in 2018/19) and the proportion of admissions as a percentage of the number of looked after children has remained at 1% during this period (Consultation Document, p11). This is obviously a small cohort of children requiring intensive specialist interventions.

Care experienced young people have reported that 'a chaotic environment or atmosphere can be difficult and can have an impact on their behaviour', describing the difficulties of group living and sharing accommodation with a range of children who are all dealing with their own issues (VOYPIC, 2014: 23; Haydon, 2016: 59). This can make it hard for them to build strong relationships with staff and to feel comfortable talking about issues such as safety and finding themselves in 'risky' situations. The Regulation and Quality Improvement Authority [RQIA] has recognised that, for some children, being admitted to residential care and living in a group setting can act 'as a

conduit to some *new or increased risk factors* including being bullied, sexual exploitation and predatory adult networks, suicide pacts, and exposure to increased criminalisation' (RQIA, 2011: 43, emphasis added). Beckett (2011: 92) affirmed that a period in secure care can also increase risk for some young people in terms of the relationships they establish there and the risks they are introduced to via these relationships on their return to the community. She concluded, 'while secure accommodation may have a role to play where threat to life and welfare is imminent, it is not in itself an adequate response to sexual exploitation nor was it ever designed to be'.

The number of *repeat admissions* to the Secure Care Centre increased from 38% in 2016/17 to 46% in 2017/18 and 45% in 2018/19 (Consultation Document, p11). Between April 2014 and March 2019, 122 looked after children were admitted to the Secure Care Centre on 198 occasions (Consultation Document, p16). Repeat admissions mean that some children spend a long time in secure care. Although they know their next court date, this does not necessarily lead to end of their detention as they may receive an additional Secure Accommodation Order. Young people consider that repeat admissions to secure care are indicative of an ineffective response to the needs of an individual (Haydon, 2016: 67), with some reporting that they 'got used to it' (Archibald, 2018: 64). Professionals have also raised concerns about the number of repeat admissions and limited impact on behaviours beyond the immediate period of containment (Beckett, 2011: 91).

Justice

Under the provisions of Article 39(8) of the *Police and Criminal Evidence (Northern Ireland) Order 1989* [PACE], a child may be placed in the JJC as a 'place of safety' following arrest and prior to a court appearance. Since 2016 almost two thirds of admissions to the JJC have been via *PACE*: 66% (197 of the 298 admissions) in 2019/20; 68% in 2018/19; 63% in 2017/18; 62% in 2016/17 (Brown, 2020: 31). These children are generally detained for 1-2 days, and it has consistently been the case that around half are then released – in 2019/20 only 49% went on to be held on remand or sentenced (Brown, 2020: 39). Previous inspections have noted that these placements are used to remove disruptive children from care homes (CJINI, 2008), in the absence of alternative accommodation 'when they presented chronic social problems' (CJINI, 2011), and because there was no alternative accommodation available (CJINI, 2015b). Noting that the majority of children admitted to the JJC under PACE over the weekend were looked after, the Youth Justice Review (2011: 53) commented: 'The question of how children, already under the protection of the state, can be in need of a place of safety remains unanswered'. Marshall (2014: 95) asserted: 'It is unacceptable for children to be placed in a justice facility for their own safety'.

Admissions to the JJC under PACE are much higher in areas which are geographically close to the Centre. This was described as a matter of 'postcode expediency' by the Inspectorate, which stated: 'Alternatives must be found to the Juvenile Justice Centre being used as a temporary, short term location for children who breach children's

home rules' (CJINI, 2015b: 5-6). The most recent inspection, conducted in November 2017, noted that 'half of the children admitted to the JJC on PACE were released within 48 hours. Many only remained in the JJC for a matter of hours, which suggested custody was not used as a last resort, but because there was no alternative accommodation available at the time of their court appearance', with 'a clear pattern of increased PACE admissions at weekends' (CJINI, 2018: 13). In addition to having implications for staff deployment, the Inspectorate repeated previously noted negative consequences including: 'possible diversionary disposals being bypassed; disruption to the JJC regime; the deterrent value of the JJC being lost; and the personal impact on a child, which could be significant'. Despite the JJC routinely challenging police officers when they enquired about a PACE admission to ensure more appropriate placements had been explored, and an inter-agency group reviewing the operation of PACE procedures and bail conditions for children, the Inspectorate stated: '*it is highly unlikely that the PACE problem will ever be completely eradicated unless legislation is changed*' (CJINI, 2018: 13, emphasis added).

The *Criminal Justice (Children) (Northern Ireland) Order 1998* stipulates that a child should be remanded in custody (awaiting trial or sentence) for public protection or if the alleged offence is serious. Around a third of admissions to the JJC are young people on *remand* – 32% in 2019/20 (95 of the 298 admissions); 30% in 2018/19; 33% in 2017/18; 35% in 2016/17 (Brown, 2020: 31). Inappropriate use of remand is a long-standing issue in Northern Ireland, particularly as the majority of those on remand are subsequently bailed and do not go on to serve a custodial sentence. Ten years ago, the Youth Justice Review (2011: 55) stated that 'the courts are using custodial remands wrongly – as a kind of "short, sharp, shock" or more benignly to secure the young person's safety'. Four years later social workers reported to Inspectors that, in cases where it was difficult to access a secure placement at short notice for a looked after child engaged in high risk behaviour, 'custody became an attractive option in order to keep the child safe'. They also reported that, when a child failed to comply with bail conditions, 'staff believed that recourse to the criminal process was their only way of controlling behaviour, even though they accepted it probably would not work in the longer term' (CJINI, 2015b: 34).

Consequently, some children are held on remand because they have breached bail conditions. The Inspectorate noted in 2015 that few children had less than 3 bail conditions – the average was 5 – and additional conditions were added if the child failed to comply, which was considered counterproductive 'because it could set children up to fail' (CJINI, 2015b: 34). Young people in conflict with the law and NGOs working with them have expressed concern about the number and complexity of bail conditions being imposed, considering these unrealistic and difficult to uphold - especially for those whose lives are unsettled and chaotic (Children's Law Centre and Save the Children NI, 2015: 44). Marshall (2014: 87) exemplified this issue: 'Official documents acknowledge that bail conditions imposed on LAC are likely to be more onerous than for the general population and are often unrealistic or even unachievable

and therefore more likely to be breached' (e.g. a bail condition might require the young person to abide by the rules of the children's home and/or not leave the home without permission). Given delays in the youth justice system, young people will be subject to bail conditions for an average of 3-4 months, and any breach can result in detention. Considering the implications in relation to sexual exploitation, Marshall commented that this 'makes criminalisation even more likely for those young people enticed from children's homes by those who control them' (ibid).

Others are on remand because they are unable to perfect bail due to being homeless - they have no accommodation to which they can be released on bail - sometimes because a residential care home refuses to accept a child back into the home if they have offended against the home or a member of staff, or are considered 'unruly' (Youth Justice Review, 2011: 57). Social Services are responsible for assessing and providing such young people with suitable accommodation (which should not include unregulated placements in Bed and Breakfast or Hostel accommodation). The Northern Ireland Human Rights Commission *Annual Statement 2019* cited this as an issue requiring urgent attention (NIHRC, 2019: 31-32).

Very few children in the JJC are actually *sentenced* to custody. In 2019/20, just 6 of the 298 admissions (2%) were sentence admissions, a similar proportion to previous years (2% in 2018/19; 4% in 2017/18; 3% in 2016/17) (Brown, 2020: 31). While the JJC sometimes holds children charged with/ convicted of grave crimes, all 15 in custody during the most recent inspection in November 2017 'were charged with low level offences of dishonesty and behavioural matters. Only a few were known to the PSNI as prolific offenders, but several had breached conditions of their bail or probation orders' (CJINI, 2018: 15).

According to figures for 2017/18, 8 of the 11 young people released from custody who had received a Juvenile Justice Centre Order reoffended within one year (Browne and Millar, 2020: 23), affirming that custody is not an effective response to ending offending behaviour. Between April 2014 and March 2019, 229 looked after children were admitted to the JJC on 841 occasions, with *repeat admissions* an obvious issue (Consultation Document, p16).

International standards

Beijing Rule 19 (Commentary) states: 'Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalisation as compared to non-institutionalisation. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case for juveniles, who are vulnerable to negative influences.' The Commentary cautions that 'the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development'. This Rule emphasised

that any facility for detaining children should be of a correctional or educational nature rather than of a prison type.

In March 2015, the UN General Assembly Human Rights Council considered a report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment which raised a number of concerns about children deprived of their liberty. Noting that 'children experience pain and suffering differently to adults owing to their physical and emotional development and their specific needs', his report stated: 'healthy development can be derailed by excessive or prolonged activation of stress response systems in the body, with damaging long-term effects on learning, behaviour and health' (Méndez, 2015: para 33). Acknowledging numerous studies which 'have shown that, regardless of the conditions in which children are held, detention has a profound and negative impact on child health and development', the Special Rapporteur stated: 'Even very short periods of detention can undermine the child's psychological and physical well-being and compromise cognitive development' (ibid).

Placement of a child in an institution should always be 'a disposition of last resort and for the minimum necessary period' (Beijing Rule 19.1) Affirming this principle, Riyadh Guideline 46 adds that 'the best interests of the young person should be of paramount importance'. UNCRC Article 40.3b prioritises alternatives to judicial proceedings for under-18s 'wherever appropriate and desirable', with the caveat that human rights and legal safeguards are fully respected. Considering interventions that avoid resorting to judicial proceedings, the UN Committee on the Rights of the Child's *General Comment No. 24* on children's rights in the child justice system states that diversion 'should be the preferred manner of dealing with children *in the majority of cases'*, with States continually extending the range of offences for which diversion is possible – *including serious offences where appropriate* (CRC, 2019: para 16, emphasis added). The variety of community-based programmes that have been developed include community service, supervision and guidance by designated officials, family conferencing and other restorative justice options (including reparation to victims) (ibid: para 17).

When judicial proceedings are initiated by the competent authority, the principles of a fair and just trial are applicable. The CRC emphasises that the child justice system 'should provide ample opportunities to apply social and educational measures, and to *strictly limit the use of deprivation of liberty, from the moment of arrest, throughout the proceedings and in sentencing*' (ibid: para 19, emphasis added). It is expected that States will have in place a Probation Service or similar agency with well-trained staff to ensure the maximum and effective use of measures such as guidance and supervision orders, probation, community monitoring or day reporting centres, and the possibility of early release from detention (ibid).

The ‘Tokyo Rules’ (OHCHR, 1990c) affirm this commitment to avoidance of pre-trial detention, and use of sentencing dispositions which are non-custodial (Tokyo Rule 6). In making its decision, it is expected that the judicial authority will take into consideration the rehabilitative needs of the offender, the protection of society and the interests of the victim (Tokyo Rule 8.1). The range of non-custodial measures at its disposal should include: verbal sanctions; conditional discharge; status penalties; economic sanctions and monetary penalties; confiscation or an expropriation order; restitution to the victim or a compensation order; suspended or deferred sentence; probation and judicial supervision; a community service order; referral to an attendance centre; house arrest; any other mode of non-institutional treatment; some combination of these measures (Tokyo Rule 8.2). Any conditions to be observed by the offender should be ‘practical, precise and as few as possible’, aimed at reducing the likelihood of relapse into criminal behaviour and increasing chances of social integration (Tokyo Rule 12.2). Failure of a non-custodial measure ‘should not automatically lead to the imposition of a custodial measure’ (Tokyo Rule 14.3).

Action required

A small number of children experiencing extreme vulnerability may require a ‘safe space’ offering temporary respite. It would be helpful to involve children who have been/ are currently in secure care, to identify the type of provision that feels safe *without restricting their liberty.* As Marshall (2014: 94) commented: ‘children have a right to be protected and … this will be most effectively secured if their views are taken into account about how matters of care and control should be addressed’. The CSE Inquiry suggested that models in the Netherlands may provide a starting point for discussion with children who have experienced CSE. ‘Safe spaces’ may mean different things depending on place and need – potentially ranging from a daytime resource to a small, community-based, residential unit with safety features agreed by those who are staying in it (Marshall, 2014: 95).

Section 98 of the *Justice (Northern Ireland) Act 2015* inserted new wording into Section 53(3) of the *Justice (NI) Act 2002* which ‘compels all those working in the youth justice system to take account of the best interests of children with whom they are working as a primary consideration’. To achieve this objective, there should be an end to use of the JJC/ any form of secure accommodation as a ‘place of safety’ under PACE and to use of custody for those on remand. If required, accommodation options in the community should be used as a short-term ‘place of safety’.

Alternatives to use of custody are also required for the majority of those currently sentenced, with deprivation of liberty only used as a measure of last resort to ensure the safety of an individual child or others.

Use of the Secure Care Centre as a place of safety for children following their arrest

The Secure Care Centre/ any form of secure accommodation should not be used as a 'place of safety' for children following their arrest.

Other comments about the routes of admission to the Secure Care Centre

Many of the children admitted to secure care and custody are struggling with *dependence on drugs and/or alcohol.* However, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stated that 'drug dependence as a "multi-factoral health disorder" requires a health response rather than recourse to detention' (Méndez, 2015: para 79).

Applications for secure care have been one of the most common responses to concerns about *sexual exploitation and children 'going missing' from residential care.* The potential benefits associated with a period in secure accommodation include 'the possibility of breaking a cycle of behaviour, the opportunity to deliver services (both practical and therapeutic) to a young person and respite from the influence and demands of abusers', and sometimes it is considered the 'only way to ensure the immediate physical safety of a young person' (Beckett, 2011: 91). However, professionals have raised serious concerns 'about the appropriateness and impact of secure accommodation as a response to sexual exploitation', with some feeling that locking up the young person rather than the abuser(s) gives the message that the young person is at fault (ibid). Marshall (2014: 87) reported: 'PSNI told the [CSE] Inquiry that it recognised that placing children and young people in secure accommodation is not a means to resolving issues around child sexual exploitation and may in fact lead to breach of rights under the UNCRC'. She stated unequivocally: 'For some young people a period in secure accommodation may be a temporary answer but it cannot be a long term solution' (ibid: 89).

A significant issue raised by the CSE Inquiry was the involvement of young people in criminal behaviour associated with their sexual exploitation (Marshall, 2014: 115). This includes their use of drugs and alcohol (which increase their vulnerability to exploitation), bringing other young people into exploitative situations, and abusive behaviour against peers. As Marshall noted, 'fear of being treated as offenders might be a barrier to reporting their own exploitation, and this fear can be used by exploiters who might deliberately involve young people in offending in order to silence them' (ibid). She stated that there is a 'need to look beyond the young people to identify whether there are others controlling them', particularly as young people 'may act out the trauma of CSE through behaviour that brings them into conflict with the criminal justice system and renders them less credible in the eyes of jurors' (ibid). Furthermore, in cases where the perpetrators are only a few years older than their victims and may also be vulnerable young people, 'a purely criminal justice response might not be appropriate' (ibid).

As Goldson highlighted almost twenty years ago, when the 'welfare' route is obstructed, some authorities 'explore the justice route in respect of the same children', using *'pragmatic criminalization'* to address 'manifest welfare needs' (Goldson, 2002: 91). Discussing the disproportionate number of children from care backgrounds in the JJC, in 2008 the Criminal Justice Inspectorate stated that many looked after children 'were already damaged and criminalised, with an estimated 75% of those who entered secure care having accrued criminal convictions' (CJINI, 2008: 5). According to the Inspectorate, 'Research suggested that the gatekeeping process for secure care could actually lead to children being placed in the JJC if they did not meet the strict secure care criteria; and trivial offences provided the opportunity to use custody as quasi-care' (ibid). In analysis of ten cases which met the criteria for a secure care placement, RQIA (2011: 43) found that three of the five who did not go to the Secure Care Centre due to lack of available places were admitted to the JJC (two within a fortnight). Marshall (2014: 88) recounted a professional expressing the opinion that 'young people might be admitted to the juvenile justice centre in circumstances when the secure facility, with a child care focus, would have been more appropriate' because 'there were fewer bureaucratic barriers to admission to the justice facility than the care facility'. Marshall also reported a case in which 'bail was refused because the young person was at risk of CSE'. Challenging this response, she stated: 'young people should never be criminalised in response to criminal acts committed against them' (ibid: 89).

Specific groups are over-represented in custody. The over-representation in adult custody of those with mental illness, learning disabilities, speech, language and communication needs is well-established (Houston and Butler, 2018). However, data in relation to these issues for children in the JJC is not readily available. Outlining the 'profile' of those in the JJC, details included in inspection reports do not generally include numbers or proportions of *children with physical disabilities, learning difficulties, mental illness, or speech/language/communication needs*. Yet it is clear that these are significant issues amongst the children in custody. The most recent Inspection report refers to: gaps in staff training 'in relation to understanding the effects of trauma on children, as well as specialist needs, for example, learning disability and attention deficit hyperactivity disorder'; almost half of the children having special educational needs requiring additional support with aspects of their learning; the Healthcare team including a Learning Disability nurse; 80% of the children being prescribed some form of controlled medicine; and some children being prescribed high doses of anti-psychotic and anti-depressant medication when living in the community (CJINI, 2018: 21, 37, 41, 42, 46).

Looked after children have consistently been over-represented in custody. The Youth Justice Review (2011: 56) noted that about a third of children remanded to the JJC were looked after, with most coming directly from children's homes as a result of breaching their bail conditions - often for trivial offences for which a custodial sentence was highly unlikely (such as kicking a door frame, stealing food from a fridge, or

throwing a snowball at a member of staff). It was suggested that children's homes did not know if they were expected to report to the court every breach of every rule, or only those related to the offence for which the young person received bail (ibid). The Review Team recommended that 'looked after children should no longer be placed in custody, either through PACE, on remand or sentenced, where this would not have been an outcome for children in the general population' (Youth Justice Review, 2011: 78). In 2013 a Criminal Justice Inspectorate report about progress in implementation of the Review Team's recommendations showed that there had been 'limited progress' on this recommendation (CJINI, 2013: 35). Two years later, this recommendation was assessed as 'not achieved – long term monitoring required', but the Inspectorate recorded that funding for the post of a Criminal Justice Officer in DHSSPS who was closely monitoring PACE admissions to the JJC was ended by the DoJ in April 2015 (CJINI, 2015b: 48).

Marshall (2014: 82) acknowledged that looked after children 'are known to accumulate offences when in care for situations that would not result in the criminalisation of other young people'. Some interviewees involved in the Northern Ireland Human Rights Commission investigation into alternative care and children's rights 'highlighted that young people in residential care were being penalised for offences in a way that they would not if they resided with their parents' (NIHRC, 2014: 158). Care experienced young people have stated that parents would not call the police if a young person hit their sibling or deliberately broke furniture - the young person would be told off, and there would be consequences, but the police would not be called. They have called for a different approach to challenging behaviour, and for staff in children's homes to be trained to manage these behaviours with more honest, transparent and respectful approaches. They are clear that a criminal justice disposal, whether a prosecution or a diversion, should not be regarded as an automatic response to offending behaviour by a looked after child (Include Youth Consultations 1). However, latest figures demonstrate that the proportion of admissions to the JJC who were looked after actually increased from 36% in 2015/16 to 52% in 2019/20. During 2019/20, 154 of the 298 admissions to the JJC were looked after. Of the 126 individual children in custody during the year, 49 were looked after with 30 subject to a Care Order and 19 voluntary accommodated (Brown, 2020: 35).

There is also an over-representation of *Catholics* in custody. The Criminal Justice Inspectorate noted in 2018: 'It is concerning that, as well as the actual number of Catholic children admitted, their proportionate representation had increased steadily in recent years: from 57% in 2013-14 to 76% in 2016-17', highlighting that this was a matter for community agencies such as the PSNI, the Public Prosecution Service and the NI Courts and Tribunals Service to address (CJINI, 2018: 15). During 2019/20, 84 of the 126 individuals in custody (67%) self-identified as Catholic (Brown, 2020: 34). In contrast, 45% of the Northern Ireland population identified as Catholic in the 2011 Census, and 51% of school children defined themselves Catholic in 2018 (https://www.bbc.co.uk/news/uk-northern-ireland-43823506).

MULTI-AGENCY PANEL

The proposal to establish a regional, independently-chaired multi-agency Panel

Establishment of an independently Chaired multi-agency Panel with a decision-making role in relation to approving/ not approving any HSC Trust proposal to make an application to the Court seeking a Secure Care Order should ensure consistency across Trusts in determining whether alternatives have been considered, whether a secure placement is appropriate, whether a secure placement should be continued, and provision required when a child is discharged from a secure placement. This is likely to prevent inappropriate admissions, minimise unnecessary placement moves, and ensure continuity of care. Regular liaison between the Independent Chair of the Panel and the Head of any secure facilities should ensure development and implementation of an individually-tailored care plan for each child, with regular review of the situation (as required by Regulation 10 of the *Children (Secure Accommodation) Regulations (Northern Ireland) 1996* and UNCRC Article 25).

Action required

Expecting the Panel to monitor the care and services provided within secure facilities to ensure a consistent approach to management of risk is a very different role, more appropriately fulfilled by the relevant inspection body or a body similar to Independent Monitoring Boards in prisons. The Panel's role should focus on *admissions and discharges* to secure accommodation.

Proposed Panel membership

The Consultation Document (p25) proposes that this Panel will include representation of agencies involved in provision of services within secure care and in the community – to facilitate and promote an integrated and collaborative approach aimed at identifying alternatives to a secure placement where possible, providing coordinated interventions within a secure placement and when individuals return to the community.

Action required

While agreeing that membership of the Panel should involve senior representation, including an independent Chair, the secure care Head of Operations, HSC Board and Trusts, the Youth Justice Agency, the Education Authority and PSNI, it would also be helpful to include representatives of accommodation providers plus voluntary/ community organisations working directly with vulnerable children.

Scope for the courts to make reference to the Panel in determining the most appropriate disposal for a child who has been involved in offending behaviour

Action required

Decisions about disposals for those involved in offending behaviour should be made by the court. The Panel should focus on admissions to and discharges from *secure* accommodation.

Other comments on the proposal to establish a multi-agency Panel

The Consultation Document (p25) states that the Panel will encourage and facilitate the attendance of individual children, alongside a competent advocate. This is a welcome intention. However, lack of participation in the planning and review of their care has been reported by children who do not feel comfortable attending review meetings, particularly as a result of minimal interaction and what they consider to be inappropriate or inaccurate sharing of information (Haydon, 2016: 62-64). According to Department of Health statistics, 57% (1,371) children in care for 12 months or longer were invited to attend their latest statutory review during 2017/18. Of these, 30% attended, 47% did not attend but sent their views in writing and 11% did not attend but briefed an advocate to speak on their behalf. Of the *43% (1,050) not invited to attend*, this was reportedly because 79% were considered too young to understand and fully participate in the process, 3% could not engage due to the level of their disability, while 3% did not want to participate (Department of Health, 2019: 22).

Young people in secure care often do not feel that they are part of decision-making processes or that their opinions are taken seriously (Sinclair and Geraghty, 2008: 54; Haydon, 2016: 62-65). A consistent issue raised by some is that they were unaware of a decision being made about their potential placement in secure care and that they had minimal, if any, input into this decision (Haydon, 2016; Archibald, 2018; Walsh, 2020). Some considered use of secure accommodation to be a punishment rather than protective, most felt unprepared for the move to secure care and that they had no choice about where they were going (Haydon, 2016: 66-67; Archibald, 2018: 63; Walsh, 2020: 12). Having no clear 'discharge date' is a disturbing feature of secure care, in contrast with custody when 'you know how long you will be there' (Haydon, 2016: 67; Walsh, 2020: 12).

For organisations working with care experienced children, key areas where children's voices need to be more encouraged, included and listened to are: about their placements, within their reviews, at end of placement reviews, about their relationships with social care staff and the services they receive (Haydon, 2020a: 43).

International standards

UNCRC Article 12 reinforces the importance of assuring that any child capable of forming her/his own views is able to express these views freely in all matters affecting them, and that these views are given due weight in accordance with the child's age and maturity; and of providing the child with the opportunity to be heard in any judicial and administrative proceedings affecting her/him – either directly or through a representative or appropriate body.

The UN Committee on the Rights of the Child has affirmed that age should not be a barrier to children's participation (CRC, 2005; 2009).

Actions required

Significant efforts will be required to ensure *meaningful participation*, particularly for younger children. Their involvement in decision making does not mean that the views of the child should be determinative, particularly where they do not have the same level of concern about their own wellbeing as the adults who are responsible for their care. However, it is important that their opinions and suggestions about possible responses to harmful behaviours are given due regard and that they understand how their views have been taken into account, especially when a decision is made with which they do not agree.

Also required is children's access to *legal representation* during this process.

SERVICES IN THE CAMPUS

Proposal to implement a Framework for Integrated Therapeutic Care, to be applied across all looked after children settings, including within the regional Care and Justice Campus

The introduction of a NI Framework for Integrated Therapeutic Care [NIFITC] across *all* settings where children are looked after is welcome, and long overdue - particularly as children were interviewed about implementation of therapeutic approaches in residential care almost ten years ago (Millen and Macdonald, 2012).[6] It is difficult to comprehend how responses to those in care have not always been centred on understanding of the impacts of trauma, provision of support to help children recover from trauma through relationally-focused care, identification of specific support needs and interventions, implementation of a '*team around the child'* approach, and the active participation of children and their families in all aspects of decision making about the child's care (Consultation Document, p8). While a current focus on Adverse Childhood Experiences and 'trauma-informed' practice have highlighted the fundamental difficulties faced by vulnerable children, these concepts reinforce well-established knowledge about the range of difficulties affecting their lives and familial relationships as well as their personal, social, and educational development.

The 'Sanctuary' model had been adopted as a therapeutic approach when young people were interviewed in the Secure Care Centre in 2012. Recognising that most residents in secure care have experienced trauma, this was intended to help them understand their feelings, encourage them to talk about their feelings, and reflect on how they act on these feelings. Millen and Macdonald (2012: 4) found that most of the young people they interviewed 'had heard the term "Sanctuary" but knew little or nothing about it'. The phrase 'psycho-education' is used within this model to describe

[6] See: Macdonald et al (2012).

a group-based curriculum designed to familiarise young people and staff with the psycho-biological effects of serious, recurrent and chronic stress. The rationale is that understanding these processes will increase awareness of how they impact on behaviour. However, illustrating the significance of *language* and its meaning to different people, one young person considered the term inappropriate and stigmatising, stating: 'Psycho-education is a stupid word for it because we aren't "psycho" if you know what I mean' (ibid). Similarly, during a consultation in the Secure Care Centre in 2015, a young woman was shocked to discover what the acronym CAMHS [Child and Adolescent Mental Health Services] stood for, expressing concern that staff 'think I'm mental' and that she might be sent to a psychiatric unit (Haydon, 2016: 82).

Action required

As acknowledged in the Consultation Document, a multidisciplinary therapeutic approach is required, with effective co-ordination of services across current organisational boundaries - within the community, within secure environments, plus between the community and secure environments.

Effective co-operation between different agencies is vital, including the range of statutory, voluntary and community organisations working with vulnerable children and their families in the areas of health, social care, youth justice, housing, education and training, employment, youth and community work, play and leisure, parenting and family support.

Most significant is consistent application of the therapeutic care framework, and clear explanation to children about the approach being adopted - why it is being used, what it is expected to achieve, how it will be applied and the implications for their interactions/ behaviour.

The multi-disciplinary team in the Secure Care Centre

Previous issues concerning provision in secure care

Some of the children consulted in the Secure Care Centre in March 2015 raised the issue of *having to see too many different people in a week*, all from different agencies (this might include social workers, psychologists, counsellors, trauma specialists, psychiatrists, Youth Justice Agency staff, Probation, and project workers from various voluntary organisations in relation to substance abuse or sexual exploitation). A few felt they had no choice over engagement with specialist services while they were in secure care as this was included in their 'exit plan' (Haydon, 2016: 80-81).

Education: A high proportion of those in secure care have attended an Education Other Than At School setting, a residential unit or been excluded from school (Sinclair and Geraghty, 2008: 38). Furthermore, a high proportion have been defined as having Special Educational Needs, have not been attending school before their placement in

secure care or have been expelled (Haydon, 2016: 77; Archibald, 2018: 69). In March 2015, consulted children explained that under-16s who did not want to attend education had to stay in their room, with no electricity and therefore no access to TV, until ready to return to the classroom. [In January 2016, the SE Health and Social Care Trust stated that power sockets were no longer switched off when a child was not attending school (Haydon, 2016: 98)]. Implying regular turnover or mixing of staff teams, one young person stated that she would prefer the teacher/ classroom assistant teaching teams to stay the same all the time and an extension of the school day until 5pm. The curriculum was described as limited, different from mainstream educational provision, and focused on literacy/ numeracy/ essential skills. Provision for those aged 16+ was also considered limited, with restricted subject choice and no access to external courses. A few expressed concern about not being able to return to mainstream school and progress with their studies (Haydon, 2016: 77-78). Lack of connection between the education provided in secure facilities and in the community was an issue raised by young people consulted as part of the review of regional facilities (Archibald, 2018: 70).

Health: Additional services brought into the Secure Care Centre from specialist agencies such as Psychology and CAMHS have provided various types of therapy (family, behaviour management), counselling (in relation to addiction, school, eating disorders), or to address specific needs (e.g. drug/ alcohol/substance abuse, sexual abuse, involvement in offending behaviour). However, difficulties in accessing CAMHS was a key issue identified over ten years ago by Sinclair and Geraghty (2008: 63). In the recent review of regional facilities VOYPIC reported that 'it appeared … there were missed opportunities to assess, diagnose and treat young people's mental ill health', with 'a lack of response and therapeutic input' concerning the causes of young people's behaviour (Archibald, 2018: 71).

Drug use: Most of those consulted in the Secure Care Centre in 2015 stated that they were placed there for 'using drugs'. Some described wanting to live the life they chose, rather than what people chose for them, including taking drugs (Haydon, 2016: 59, 81, 83). They resented having to engage with services while in the Centre, particularly DAMHS [Drug and Alcohol Mental Health Services]. Some commented that they thought it was unrealistic to expect young people not to drink or take drugs and many stated their intention to continue using drugs. One noted that staff in the Centre were less focused on drug cessation than some of the agencies with whom he engaged, instead spending time talking about the effects of specific drugs as well as how young people could reduce their drug use. In addition to being more realistic, he felt this had helped him re-evaluate his drug use and informed decisions about which drugs to stop taking. Another young person felt that not being told to stop but how to use less drugs was helpful (Haydon, 2016: 81, 83). A number of young people consulted in the review of regional facilities 'highlighted that being off drugs and alcohol (presumably "going cold turkey") was often an unintended benefit of their stay'. While advising that this was positive, VOYPIC noted the importance of managing such a process 'in a safe

and controlled way' in which individuals are 'supported by appropriately trained staff to mitigate against any unintended outcomes' (Archibald, 2018: 70).

Sexual exploitation: Care experienced young people consulted about CSE suggested that secure care is used 'both as a threat to young people who may be engaging in risky behaviours and as an intervention when a young person becomes very unsafe' (VOYPIC, 2014: 29). However, they did not consider that this was effective in preventing CSE or further harm - although a secure placement may remove them from the immediate and acute situation, the young person is placed back into the same community and environment on discharge and is consequently exposed to the same dangers and risks. Young people's understanding of 'risk' often does not match that of those responsible for their care (VOYPIC, 2014: 24; Neill and Moffett, 2014: 10; Haydon, 2016: 58-59,62, 82), leading to a disconnect between their perceptions and the responses of the professionals working with them. Although they may under-estimate potential risk of harm, their questioning of what they consider to be 'over-reactive' and intrusive interventions highlight how professional emphasis on risk management procedures appears to take precedence over discussion with the child about how their needs, and concerns about their safety, could best be addressed.

Exercise/ leisure: Although there was a gym, a sports hall and a pool room in the Secure Care Centre, in March 2015 consulted young people referred to restrictions on use of facilities as a result of 'Health and Safety' (e.g. they described the multi-gym in the gymnasium being out of use because no member of staff had been trained to use it; the rubber-based basketball court being unusable because it was too wet and slippery in winter and too soft in summer!). A number felt that there were insufficient activities, especially during the evenings, with boredom being a catalyst for people 'kicking off'. One young person mentioned that occasionally 'trusts' (activities such as going out for a coffee, to see a film or on a shopping trip with a member of staff, which were built up over 14 days and linked to LAC reviews) were curtailed to accommodate demands on staff (Haydon, 2016: 79).

Communication: When consulted in 2015, young people in the Secure Care Centre did not have access to mobile phones and could only access the internet via C2K ICT within the school. They objected to these restrictions, explaining that they were not allowed to make personal phone calls until after 6pm and before 9pm, and could only make two calls a night. Not being able to be with their friends was difficult, and one young woman expressed annoyance about a contact list of people they were allowed to phone being drawn up by their social worker. Lack of privacy was a significant issue, as staff supervised phone calls and family contact time (Haydon, 2016: 74-75). [The SE Trust stated in January 2016 that evening calls were limited on weekdays to ensure fair access to calls for all those within a unit (Haydon, 2016: 98).] The importance of continued access to family and friends was reiterated by children consulted about the proposed regional facilities, although their experiences differed with some reporting 'relatively unfettered access (dependent on the approval of staff and social worker)' while others reported 'highly restricted access' (Walsh, 2020: 13).

International standards

Beijing Rule 26.2 clarifies the expectation that young people in institutions will 'receive care, protection and all necessary assistance – social, educational, vocational, psychological, medical and physical – that they may require because of their age, sex, and personality and in the interest of their wholesome development'. Havana Rule 31 emphasises that those deprived of their liberty 'have the right to facilities and services that meet all the requirements of health and human dignity'. The design and physical environment of detention facilities 'should be in keeping with the rehabilitative aim of residential treatment', with 'due regard to the need … for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities' (Havana Rule 32). Detained young people should be able to possess personal effects and have adequate storage facilities for these; use their own clothing; receive food that is suitably prepared and presented at normal meal times and have access to clean drinking water at any time (Havana Rules 35-37).

In terms of education, every detained child of compulsory school age 'has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society' (Havana Rule 38). This 'should be provided outside the detention facility in community schools wherever possible' and, in any case, 'by qualified teachers through programmes integrated with the education system of the country' so that, after release, the young person 'may continue their education without difficulty'. Individuals who are illiterate or have cognitive/ learning difficulties 'should have the right to special education'.

Those above compulsory school age who wish to continue their education 'should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes' (Havana Rule 39). Diplomas or educational certificates awarded to young people while in detention should not indicate in any way that they have been institutionalised (Havana Rule 40). Every young person 'should have the right to receive vocational training in occupations likely to prepare him or her for future employment' (Havana Rule 42). They should be given the opportunity to perform paid labour, if possible within the local community, as a complement to the vocational training provided to enhance the possibility of finding suitable employment when they return to their communities (Havana Rule 45).

In addition to 'a suitable amount of time for daily free exercise, in the open air whenever weather permits', children should have 'additional time for daily leisure activities' and be able to participate in programmes of physical education (Havana Rule 47). Each individual should also 'be allowed to satisfy the needs of his or her religious and spiritual life' (Havana Rule 48).

Every child should receive adequate preventive and remedial medical care (including dental, ophthalmological and mental health care), where possible provided through the appropriate health facilities and services of the community in which the detention facility is located (Havana Rule 49). The medical services provided 'should seek to

detect and … treat any physical or mental illness, substance abuse or other condition that may hinder integration' of the young person into society (Havana Rule 51). Every child 'who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer'.

Any child 'who is suffering from mental illness should be treated in a specialised institution under independent medical management' (Havana Rule 53). Detention facilities 'should adopt specialised drug abuse prevention and rehabilitation programmes'. Administered by qualified personnel, these programmes should be adapted to the age, sex and other requirements of the young people concerned and detoxification services staffed by trained personnel should be available to those who are drug or alcohol dependent (Havana Rule 54).

It is expected that 'every means should be provided' to ensure that detained young people 'have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment' and is essential to their preparation for return to society (Havana Rule 59). They 'should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organisations', to leave the detention facility for a visit to their home and family, and to receive special permission to leave for educational, vocational or other important reasons. Every child should receive regular and frequent visits, 'in principle once a week and not less than once a month', in circumstances that respect their need for privacy, contact and unrestricted communication with their family (Havana Rule 60). They also have the right to communicate, in writing or by telephone, at least twice a week with the person of their choice (unless legally restricted) and should be assisted to effectively enjoy this right as well as the right to receive correspondence (Havana Rule 61).

Action required

The multi-disciplinary team in any secure accommodation should include:

- educators who can deliver a curriculum and activities which are relevant to the interests, lives and abilities of attending children, with a focus on Personal, Social and Health Education as well as opportunities to explore issues (including making informed decisions; developing coping strategies; managing emotions; negotiating relationships with friends, relatives, partners and others in their lives; identifying and extending their skills, qualities and strengths) using a 'youth work' approach. Education and training provided in secure accommodation should link to mainstream educational provision available in the community, enabling children to continue or re-connect with previous courses and alternative education projects
- health and wellbeing professionals who can address the physical needs of children; specialists who can provide necessary support in relation to substance use; CAMHS and mental health workers who can address the anxieties faced

by adolescents as well as trauma-related issues; relationship and sexual health practitioners
- staff who can encourage involvement in physical and recreational activities, including in the evenings and at weekends
- family support workers to ensure safe and beneficial contact between the child and their family, where appropriate, and encourage development of parenting capacity or support those providing alternative care.

NEEDS-BASED APPROACH

The proposal that children within the Secure Care Centre will not be separated on the basis of their route of admission

The personal, social and economic circumstances of children placed in secure care and custody are similar. Poor physical and mental health are common as are communication problems, neuro-developmental needs or brain injuries. Many live in severe, persistent poverty in economically disadvantaged communities. Conflict within families often includes parental separation and complicated familial relationships. In addition to parental substance misuse, mental illness and offending behaviour, many have been abused and/or neglected, leading to placement in state care. Bereavement, experiencing or witnessing a traumatic event, exposure to familial and community violence are common, as are substance misuse or addiction. Many are involved in aggressive and violent behaviour, self-harm and/or have attempted suicide.[7] An Edinburgh-based study found that, in addition to coming from economically deprived backgrounds and having been excluded from or leaving school at the earliest opportunity, those who reported involvement in violence experienced higher rates of self-harm, suicidal intention, victimisation and bullying (McAra 2018: 7). Murphy (2018: 4) argues that the 'prevalence of adverse childhood experiences, psychological distress and mental health issues' suggests that children's violent behaviour should be 'reframed as a vulnerability or distress behaviour that highlights unmet needs'.[8]

'Offending' and 'welfare' populations are not two distinct groups, although those who are the victims of abuse tend to 'remain within the category of "child"' (McGhee and Waterhouse, 2007), while the low age of criminal responsibility reinforces perceptions of child offenders as 'dangerous youths' (Piper, 2001: 34) – a false distinction consolidated twenty years ago (Goldson, 2000). In reality, their difficulties are similar and many have experience of both systems, meeting criteria for detention through either route (Hart, 2018: 55).

[7] See Jacobson et al (2010); Gyateng et al. (2013); Andow and Byrne (2017); Hales et al. (2018); Children's Commissioner for England (2018; 2019) re data about children in England and Wales; CJINI (2008); Martynowicz et al (2012); Archibald (2018); Haydon (2009; 2016; 2018) re Northern Ireland; Gough (2017); Robinson et al (2018); Lightowler (2020) re Scotland.

[8] See: Irwin-Rogers et al (2020).

Comparison with provision in under-18s Young Offender Institutions and Secure Training Centres in England and Wales is not helpful given the parlous situation in these institutions (see Haydon, 2020b). Developments in Scotland have been based on considering how to implement rights respecting approaches to children in conflict with the law, exploring important questions about the purpose of detention and providing useful insights into how the needs of the most vulnerable children can best be met (see Gough, 2016; Lightowler, 2020).

Placing a child in a secure facility should be a last resort, when all other options have been considered. It is necessary to plan for the child's release from a secure placement from the earliest stage, and to deprive them of their liberty for the shortest possible period of time. However, this means that the focus of secure care is on reducing risk of harm rather than identifying each individual's needs and addressing the underlying issues leading to their involvement in harmful or 'high risk' behaviours. These children require intensive, *long-term* support to identify the reasons and triggers for their behaviour, help them understand potential risks, develop strategies for coping with past trauma as well as current and future options/ situations. They also require necessary assistance to ensure realisation of their rights to education, health, etc while detained alongside development of links with services in their community to enable a gradual transition to living safely in their community.

Action required

Rather than focus on 'welfare' or 'care' and 'justice', the emphasis should be on responding to vulnerable children with complex needs using 'trauma-informed' approaches.

The Consultation Document (p33) mentions a proposal to work with the Northern Ireland Human Rights Commission [NIHRC] to develop a human rights framework which will underpin the operation of all elements of the Care and Justice Campus, including the Secure Care Centre. While the NIHRC remit includes children's rights, it would be more appropriate to work with organisations which specialise in *children's* rights (such as NICCY, Children's Law Centre) and/or work directly with vulnerable children (eg Action for Children, Barnardo's, Extern, Include Youth, NIACRO, Start 360, VOYPIC).

Decisions about where a child will be placed within the Secure Care Centre

The Consultation Document describes the proposed Campus as including 6 houses and a step-down facility. It does not outline how these buildings might cater for different needs, other than in terms of a distinction between the houses and the step-down facility.

Mixed ages is a potential issue. Some young people in secure care have previously raised concern about younger children being influenced by the behaviours of older children when they are mixed as well as older young people (16+) having different

educational arrangements and needing to prepare for independent living (Haydon, 2016: 69). Others suggested that younger children cause unwelcome disruption and separation by age is a way of ensuring age-appropriate support (Walsh, 2020: 7).

While having a *mix of females and males* in each unit was generally considered to be OK, one young man raised the issue of what he considered to be staff 'over-reacting' to physical contact between males and females (Haydon, 2016: 69).

Some young people have suggested that there should be *separate provision depending on the reason for children's detention (i.e., need)* – with a unit for those using drugs and a unit for those who have been sexually exploited (Haydon, 2016: 70), or separate units for 'paedophiles', those who have committed crimes, and those requiring secure care (Walsh, 2020:8).

Some consulted about the proposed changes were supportive of a *tiered system,* with more intensive supports (and less privileges) for those with 'high needs' or 'serious charges' at one end and less intensive supports (with more privileges) for those with 'less need' or 'first time offenders' at the other (Walsh, 2020: 8).

Some consulted about the proposed combination of secure care and custody facilities raised concern about the *capacity to meet very different needs, peer pressure, and the negative influences children would have on each other* (based on perceptions of those in custody as being 'more destructive' and sent to the JJC to 'get punished', and those in secure care as 'headers' or 'a danger' because they 'cut themselves') (Walsh, 2020: 5). Parents also questioned the appropriateness of combining provision for 'criminals', 'rapists' and 'murderers' who are in custody to be punished and young people placed in secure care to be 'kept safe' (Walsh, 2020: 5-6).

For some young people, organisation of the population and who they shared accommodation with was less important than *access to high quality mental health and drug services as well as offence-focused or behavioural programmes* that had a tangible impact on the issues they experienced (Walsh, 2020: 8).

International standards

As acknowledged (Consultation Document, p33), according to Havana Rule 28, detention of young people 'should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations'. The principal criterion for separation of different categories of young people deprived of their liberty 'should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being'.

Action required

Given the complexity of needs generally experienced by vulnerable children, all are likely to require access to a range of specialist services (including mental health and substance misuse).

It may be appropriate to use different accommodation for different age groups (ie under-16s and 16-18s).

Given the small number of females held in custody, mixed provision is likely to be necessary. However, consideration will need to be given to the potential impacts of mixing young people who have committed sexual offences with others. Also pertinent will be realistic expectations about development of close relationships between detained individuals, as well as clarity about what is 'acceptable', 'respectful' and 'consensual' behaviour/ interaction.

Other suggestions for how children should be 'managed' within the Secure Care Centre

Issues raised by children in secure care

Children have identified a range of issues in relation to their 'management' within secure care.

Staff in the Secure Care Centre have been considered less formal and more approachable than social workers (Millen and Macdonald, 2012: 7), able to engage and listen (Sinclair and Geraghty, 2008: 60). Staff who sit and talk with children, have a laugh, listen, provide support, and join in with activities are appreciated (Archibald, 2018: 66-67, 73). Positive relationships with staff are 'conducive to children's positive development' and can 'help to prevent an escalation of issues', making the experience of secure care 'more productive' and alleviating the 'traumatic impact of being removed from the community' (Walsh, 2020: 12).

Children have reported feeling 'scared' on *arrival* in the Secure Care Centre (Millen and Macdonald, 2012: 5). For some, initial 24-hour separation from others in their room on their own - intended to enable the child to 'settle in' - was a shock (Haydon, 2016: 68; Archibald, 2018: 64). While some found out about rules and how things operated by referring to an information pack left in their room when they arrived, others observed their peers (Haydon, 2016: 71).

Regarding *rules and management of behaviour*, in 2012 young people described the introduction of a 'points' system by which staff monitored children's behaviour and achievements each day and awarded points on a weekly basis. A young person commented: 'it's all about points', questioning use of points to determine bedtime (Millen and Macdonald, 2012: 10). Young people proposed that 'sanctions should be done away with' as they increase feelings of anger, suggesting the alternative of 'sitting down with a staff member and talking' (ibid: 14-15). The 'points'/ incentive

system, still in operation in March 2015, affected each individual's bedtime and 'trusts'. Young people consulted at that time argued that there should be more 'trusts', including in groups. They also questioned the imposition of bedtimes, especially as these were considered very early, and the electricity being turned off at 11.30pm; smoking restrictions (3 cigarettes a day, at specific times); an overly structured diet and weekly menu. Behaviour management was mainly through denial of access to cigarettes or being sent to their room. [The SE Trust stated in January 2016 that: the previous points system was no longer in use; bedtime based on the points scheme had ceased, with pre-set bedtimes based on the age of the young person; staff no longer switched off power sockets at 11.30pm and young people were encouraged to self-manage their use of TV, music, games consoles, etc; if a young person required time and space to calm they may be asked to move to one of the lounge areas or their bedroom (Haydon, 2016: 97-98).]

In addition to being distressing, use of a secure placement can have a serious negative impact on behaviour - illustrated by one young person consulted over the proposed changes to regional facilities who stated that they 'went into Secure with 0 charges and left with 25. Secure can sometimes make you worse' (Walsh, 2020: 9). Although *restraint* was occasionally used in response to physical violence, it was reported that staff generally employed other strategies to 'cool things down', including sending a child to their room for 15 minute 'time out' periods and 'talking down' young people. One young person described use of an empty room, without access to their own clothes, TV or radio, education or other activities (Haydon, 2016: 72-74). In consultations carried out as part of the review of regional services, some young people expressed concern about the number of staff members sometimes called to restrain one young person, and lack of staff interaction with the young person after the incident as they had to file a report (Archibald, 2018: 68-69).

Smoking restrictions were a 'major issue' for most of the young people interviewed during the consultations about review of regional facilities: 'young people expressed concern that smoking, which for many was a coping mechanism, was being taken away from them' (Archibald, 2018: 72).

In 2015, young people in the Secure Care Centre acknowledged that there was an opportunity to raise any issues they had at a regular Thursday evening group meeting in their unit. However, these were considered inappropriate forums for making *complaints*. Some children were aware of an Independent Representation Scheme operated by NIACRO and mentioned raising specific complaints about not being able to use the multi-gym, bedtimes and the electricity being turned off at night via this Scheme, although these issues remained unresolved at the time of the consultation. Two young people suggested that staff would not take a complaint seriously – either doing nothing or making a joke of it (Haydon, 2016: 76-77). [In January 2016, the SE Trust stated that the Centre adhered to regional policies pertaining to the Children's Order Representation and Complaints Procedures, with the placing Trust taking a lead

role in the investigation and review of any complaints received from a child regarding their care in the Centre. The Trust affirmed that each child received an introduction pack on admission, which outlined the roles of relevant organisations, the child's rights and responsibilities, comments and complaint procedures (Haydon, 2016: 95).]

Inspections of the Secure Care Centre currently lack transparency as no publicly available report is provided by RQIA following an inspection. This undermines accountability and external monitoring of how the Centre operates and the effectiveness of implemented approaches.

International standards

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has argued that, because of the 'unique vulnerability' of children deprived of their liberty, 'specific attention' should be paid to 'practices and issues such as segregation, the organisation and administration of detention facilities, disciplinary sanctions, opportunities for rehabilitation, the training of specially qualified personnel, family support and visits, the availability of alternative measures, and adequate monitoring and oversight' (Méndez, 2015: para 17). He raised a number of specific concerns relating to children in conflict with the law, children in health and social care institutions treating psychiatric, psychosocial, intellectual disabilities or responding to drug dependence, and children in administrative immigration detention centres. A particular issue was use of solitary confinement as a disciplinary or 'protective' measure. In accordance with the views of the Committee against Torture, the Subcommittee on Prevention of Torture, and the Committee on the Rights of the Child, the Special Rapporteur affirmed that 'the imposition of solitary confinement, of any duration, on children constitutes cruel, inhuman or degrading treatment or punishment or even torture' (ibid: para 44).

All professionals working with children should be aware of and receive training about children's rights, the UNCRC and other international standards (UNCRC Articles 4 and 42). In addition, Beijing Rule1.6 affirms that youth justice services should be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services - including their methods, approaches and attitudes. Professional qualifications are perceived to be 'an essential element in ensuring the impartial and effective administration of juvenile justice'; necessitating improvement in the recruitment, advancement and professional training of personnel and the need to provide them with the necessary means to enable them to properly fulfil their functions. The professional competence of all personnel should be established and maintained through professional education, in-service training, refresher courses and other appropriate modes of instruction (Beijing Rule 22.1). Havana Rule 85 states that personnel in detention facilities should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare, international standards, norms of human rights and the rights of the child.

The Havana Rules establish minimum standards concerning children deprived of their liberty and outline the processes which should be followed when a child is received in any secure facility. These include young people being given, on admission, 'a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies or organisations which provide legal assistance'. This information should be conveyed in a way that enables their full comprehension for those who are illiterate or cannot understand the language in written form (Havana Rule 24). Detained children 'should be helped to understand the regulations governing the internal organisation of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorised methods of seeking information and of making complaints' (Havana Rule 25).

In terms of responding to challenging behaviour, it is expected that instruments of restraint and force will 'only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorised and specified by law and regulation' (Havana Rule 64). These 'should not cause humiliation or degradation' and should be used only for the shortest possible period of time – to prevent the child from inflicting self-injury, injury to others or serious destruction of property. In these instances, the Director of the facility should immediately consult medical and other relevant personnel and report to the higher administrative authority.

It is expected that any disciplinary measures and procedures will 'maintain the interest of safety and an ordered community life' and be 'consistent with the upholding of the inherent dignity of the juvenile' while 'instilling a sense of justice, self-respect and respect for the basic rights of every person' (Havana Rule 66). All disciplinary measures constituting cruel, inhuman or degrading treatment are prohibited, including 'corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned' (Havana Rule 67). The reduction of diet and restriction or denial of contact with families should also be prohibited. Work should be viewed as an educational tool and a means of promoting the child's self-respect in preparing him/her for return to the community, it should not be imposed as a disciplinary sanction. No child should be sanctioned more than once for the same disciplinary infraction, and collective sanctions should be prohibited. Legislation or regulations should establish norms concerning what is considered a disciplinary offence, the sanctions that may be used, the authority competent to impose sanctions and to consider appeals (Havana Rules 68-69). No child should be sanctioned 'unless they have been informed of the alleged infraction' in a manner appropriate to their full understanding and given a proper opportunity of presenting his/her defence (Havana Rule 70).

In terms of inspection, Havana Rule 72 states that qualified inspectors, 'or an equivalent duly constituted authority not belonging to the administration of the facility',

should be empowered to conduct inspections on a regular basis, including undertaking unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function (Havana Rule 72). Inspectors should have unrestricted access to all people employed by, or working in, any facility where children are deprived of their liberty, to all children, and to all records. Qualified medical officers 'attached to the inspecting authority or the public health service' should participate in the inspections to evaluate compliance with rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of children (Havana Rule 73). Every child has the right to talk in confidence to any inspecting officer. After completing the inspection, a report on the findings should be submitted. This should include an evaluation of compliance of the detention facility with present rules and relevant provisions of national law, plus recommendations regarding steps considered necessary to ensure compliance (Havana Rule 74). Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning children's rights or the operation of the facility has occurred should be communicated to the competent authorities for investigation and prosecution.

Action required

There is a clear need for consistent standards, practices and associated regulatory/ inspection regimes to ensure that the care provided in secure accommodation is *child*-centred, therapeutic, *and grounded in promotion and protection of children's rights.*

A significant change in *staff culture and practice* is required – moving away from management of 'high risk', 'harmful' and/or 'offending' behaviour towards provision of therapeutic interventions aimed at supporting the personal, social and educational development of each child.

Staff working in residential children's homes, those providing (health, education, community youth justice, youth work, child protection and social care) services for children in the community, delivering family support, and working in secure environments all require appropriate skill sets, with *training and professional development* provided to inform their understanding about children's rights and the needs of vulnerable children.

Development of a *consistent approach* to agreeing with children what is 'acceptable' behaviour, negotiation and application of pragmatic rules, regular clarification of the consequences of breaching established boundaries should ensure that difficult behaviours are responded to in a way that ensures the safety and wellbeing of both children and staff throughout the care system, including all residential children's homes and secure facilities.[9]

[9] See: Kilpatrick et al (2008).

Children should have access to *child-friendly complaints mechanisms*, including assistance to take complaints and timely feedback about any actions taken in response to complaints raised.

The importance of social workers, service providers and staff in secure environments building and maintaining *positive, trusting relationships* with the children in their care cannot be over-stated.

Inspection findings and recommendations concerning secure care should be published (as they currently are in relation to custody).

DISCHARGE/ EXIT PLANNING

Development of an exit plan, as part of the overall care planning process, for each child on admission to the Secure Care Centre

Discussion about '*reintegration*' back into the community implies that those in secure environments were 'integrated' in the first place. In fact, it is generally their exclusion (including from education, health services if they have missed appointments, their community following threat of/ exiling by paramilitaries) which has brought them to the attention of statutory agencies.

As Beckett (2011: 91) noted, 'Enforcing behavioural changes by restricting liberty is not the same as achieving meaningful change'. She referred to a residential manager who 'observed: "compliance is not the same as progress", particularly where any degree of freedom or choice has been removed from the equation'. This was 'especially pertinent for young people with multiple experiences of secure accommodation, a number of whom were described as knowing how to work the system in order to ensure their release'. The short term nature of Secure Accommodation Orders, and the requirement that work is focused on exit planning from the point of admission to secure care, were considered 'counterproductive to achieving any meaningful and lasting change' in some circumstances.

Release from secure accommodation back to the same circumstances, without necessary *support and access to alternative activities*, has been raised as a significant issue by both children (Haydon, 2016: 84; Archibald, 2018: 73) and those working with them (Haydon, 2020a: 44).

'Inadequate follow-through' between work undertaken before/ during/ after secure placement limits the potential to achieve progress. Beckett (2011: 92) suggested that secure accommodation should be 'one part of a more comprehensive structural response to sexual exploitation', noting that many professionals 'highlighted the need for some form of therapeutic community that would facilitate engagement in long-term therapeutic work in a safe environment.'

Proposed care planning, discharge and exit planning process

While some children appreciate the security and routines within a secure setting, they are also aware of the potential for *institutionalisation* – becoming dependent on others to manage their time or activities throughout the day and not feeling safe anywhere outside the artificial, highly restrictive environment of the secure unit (Sinclair and Geraghty, 2008: 67, 72; Miller and Macdonald, 2012: 5-6; Marshall, 2014: 88; Haydon, 2016: 84; Archibald, 2018: 64; Walsh, 2020: 9).

As outlined in the Consultation Document (p18), there is a clear need for more integrated ways of working across agencies - within secure settings, in the community, plus between secure facilities and community-based provision.

Action required

All looked after children should have an *individual care plan, based on assessed needs, which is regularly reviewed*. It is vital that children are involved in development of their care and exit plans, participating in decisions about how their needs can best be addressed, the environment and support they require.

Young people need a *range of support* to help them make the transition from secure accommodation in ways which enable them to reach their full potential and adequately prepare for adulthood:

- preparation for living independently, including practical support and advice about cooking and housekeeping, available benefits and financial support, budget management, etc
- timely access to appropriate accommodation is key to providing stability
- those seeking access to education, meaningful training or employment require support through pre-vocational employability programmes (such as the 'Give and Take' scheme provided by Include Youth or 'Pathways' Project delivered by Extern)
- access to age-appropriate drug/ alcohol dependency services, based on harm reduction, will be a necessity for some
- also necessary are opportunities to discuss personal and relationship issues (including exploitative or coercive relationships) and access to sexual/ reproductive health services
- long-term family support for vulnerable children and their parents/ carers/ significant family members is a key requirement. As in secure accommodation, this should be based on development of positive, trusting relationships and reinforcement of agreed, negotiated boundaries.

STEP-DOWN UNIT

Location of a step-down facility within the Campus, on the same site but separate from the Secure Care Centre

Action required

Some form of 'step-down' provision is required to help children who have been placed in secure accommodation gradually acquire the skills and confidence to manage their own lives and live more independently. However, such accommodation should be available *in each Trust area*.

Children should be able to maintain *links with staff in secure accommodation* with whom they have developed positive relationships (such as a key worker or personal advisor) to provide continuity of care as they leave. It would also be beneficial for them to have access to *a dedicated person in the community*, who can co-ordinate the services they require and ensure they receive the agreed range of support.

Operation of the step-down unit

Action required

As deprivation of liberty should be a measure of last resort, any 'step-down' facilities should be open, with clearly negotiated rules (focused on the child's well-being rather than operational expediency) determining expectations and the consequences of these being breached.

Involvement of the PSNI when rules are breached or a child 'goes missing' should be avoided unless the child is considered to be at risk of significant harm.

COMMUNITY-BASED 'SATELLITE' PROVISION

Development of a network of local-based, connected satellite services across each of the five HSC Trust areas

Action required

As noted, the priority should be extension and further development of locally-based services in each Trust area to both prevent children entering secure care and support the return to their community of those who have spent time in a secure placement.

The purpose and focus of 'satellite' provision

(i) Preventing children from entering the Secure Care Centre

In their review of the use of secure accommodation in Northern Ireland fifteen years ago, Sinclair and Geraghty (2008: 3-4) found that all the young people assessed as being in need of a secure care placement between 1st April 2005 and 31st March 2006 had *'multiple - and often complex - needs'*. Many had 'long-standing unresolved issues'. Their case files revealed 'a sense of rising need and increasingly risky or antisocial behaviours' in the year before their assessment. But 'managing the crisis

that these behaviours generated tended to deflect efforts to deal with the inherent underlying causes' of the behaviours. Despite extensive experience of bereavement, difficult relationships with their families, high levels of special educational needs or disabling conditions (including emotional and mental health problems), assessments 'did not always take appropriate account of these issues or develop strategies to address them'. As the challenges posed by these young people increased, so did use of residential care. By the time assessment for a secure placement occurred, 71% were living in residential care. Case file analysis also demonstrated that these children 'had been offered a great many services by a range of agencies' but provision was 'fragmented', with 'a lack of continuity as young people moved around the care system' (ibid: 4). In addition to difficulties in accessing CAMHS, 'limited or non-engagement of young people with professionals and services' was a concern since this inhibited opportunities for working with them to address their problems and bring about lasting change.

Analysing the care pathways of a select group of young people who met the criteria for secure accommodation in 2011, the RQIA also revealed the complex and diverse needs of individuals described as *'amongst the most vulnerable members of our society, due to a broad range of difficult and traumatic life experiences that have a significant influence on their engagement with the world around them'* (RQIA, 2011: 47, emphasis added). Generally known to social services since childhood, the experiences of these ten young people included: the death of a parent, domestic violence, parental alcohol abuse, poor parenting, alcohol/ solvent/ drug use, a history of absconding, sexual activity from a young age, rape, sexual assault, sexual exploitation by local adult males, self-harm, poor mental health, involvement with the PSNI as a result of anti-social or offending behaviour in the community. Clearly illustrating the vulnerabilities of those in custody, the Inspectorate reported in 2008 that, of the 30 children in the JJC on 30 November 2007: 8 were on the child protection register, 14 had a statement of educational needs, 20 had a diagnosed mental health disorder, 17 had a history of self-harm and 8 had attempted suicide (CJINI, 2008).

The recent review of regional facilities noted that the *Secure Care Centre* has historically been used to meet the needs of children whose behaviours 'have exceeded the services within … open residential homes, due to the complex nature of their trauma experience and presenting behaviours', but *increasing numbers* are being *referred with mental health issues and poly substance/ drug and alcohol usage* (Archibald, 2018: 39). In the *JJC* too, *many are vulnerable as the result of complex alcohol, drug and mental health problems* (CJINI, 2018: 46). The Northern Ireland Audit Office (2019: 46) stated: 'Better evidence about the prevalence and impact of mental health issues in the criminal justice system is required'. In relation to children, Inspection reports have stated that self-harm rates are frequently due to children coming off drugs as they enter custody (CJINI, 2015b: 27; CJINI, 2018: 26). The JJC has attempted to reduce offending by delivering personal development programmes intended to address underlying social issues (covering topics such as alcohol and drug

use, making choices, family relationships, sectarianism, social and life skills, emotions, physical and mental health, citizenship) as well as programmes relating to specific offences for which children were convicted (CJINI, 2018: 35).

It is clear that the vulnerable children currently placed in secure care or custody require more support in their communities to prevent them reaching the point where a secure placement appears to be the only way to keep them or others safe. *Earlier intervention* is required *for those on the edges of secure care/ custody.* Ten years ago, the 'intervention deficits' identified by RQIA in relation to ten young people whose cases were considered by a Restriction of Liberty Panel included: limited duration of diversionary activities and lack of structured support during evenings and weekends when 'high risk' behaviours often occurred; lack of assessment of psychological needs; delays in provision of specialist support regarding mental well-being, addiction, psycho-sexual issues; and lack of access to quality therapeutic services (RQIA, 2011: 22-41).

Inadequacies within existing services in communities

Children have highlighted significant deficiencies in existing *educational provision,* including Relationship and Sexuality Education which fails to connect with the 'lived reality' of young people's lives (including sexting, family diversity, LGBT+ relationships and how to negotiate safe relationships) (Haydon, 2020a: 58). Young people are not positive about the contribution of schools in supporting their mental health, claiming that many schools are not equipped to deal with individuals experiencing problems and define these as 'bad behaviour' rather than identifying and addressing the underlying causes of such behaviour. Of particular concern to some children is perceived lack of confidentiality, which undermines their use of available counselling services in schools (Haydon, 2016: 61). The Independent Counselling Service for Schools is at maximum capacity and not statutorily funded in primary schools (which can buy in counselling if required) (Haydon, 2020a: 50).

Educational outcomes for looked after children have historically been much poorer than for their peers. Data for 2017/18 demonstrated that children who had been in care continuously for 12 months or longer were more likely to experience Special Education Needs (23% compared with 5% of the general school population) and just 54% achieved GCSE grades A*-C (compared with 86% of the general school population). They were more likely to be suspended from school – 7% of children in care were suspended compared with 1.4% of the general school population (Department of Health, 2019: 30-36). Amongst care leavers aged 16-18, 23% had a statement of Special Educational Need (compared with 5% of the general school population), 31% left school with no qualifications (compared with a NI average of 0.6%), 27% achieved 5 GCSEs grade A*- C (compared with a NI average of 85%); 17% were unemployed - 13% were economically inactive because of sickness/disabilities, 4% due to caring or parental responsibilities. 35% of care leavers aged 19+ were not involved in education, training or employment compared with 8% of 16-24 year olds in Northern

Ireland (Department of Health, 2018). Care experienced children have also highlighted how negative experiences of mainstream education are exacerbated by learning difficulties not being identified, problems experienced while they are in care not being understood by teachers, a restrictive learning environment and negative adult/child relationships in schools where challenging behaviour may lead to suspension or expulsion (Haydon, 2020a: 67-68).

Significant concerns regarding children's *mental health* include: suicide rates which are much higher than in the other UK jurisdictions (17.8 per 100,000 aged 15-24 compared with 8.1 in England, 9.7 in Wales and 15.1 in Scotland) (RCPCH, 2020: 23); increasing incidence of self-harm; increasing anti-depressant prescription rates for 0-19 year olds; self-reported poor emotional well-being (NICCY, 2017); eating disorders; low levels of self-esteem; bullying, particularly via social media and other online platforms; increased anxiety, particularly in young children; limited policy and practice in the areas of perinatal and infant mental health (National Children's Bureau, 2019); high levels of self harm and suicidal thoughts amongst LGBT young people (Neill and Meehan, 2017: 14). Organisations working with young people have reported an increase in the numbers requiring crisis intervention support as well as mental health support, both in emergency and non-emergency situations, where they have been unable to access vital services (Haydon, 2020a: 48). In 2018, the Northern Ireland Commissioner for Children and Young People published a comprehensive review of mental health services and support for children, which highlighted a range of issues regarding access to timely and effective mental health support. The system was demonstrably under significant pressure, finding it difficult to respond to the scale of need and complexity of issues presented by children and young people in a context of chronic under-investment and historical patterns of funding allocation not based on known mental health needs (NICCY, 2018b). This affects the availability, accessibility and quality of services provided.

Peer research conducted by children noted: lack of safe spaces for young people to talk about mental health and receive useful information and/or support; the poor quality of available mental health information, which is inconsistent and unhelpful; little or no mental health education in schools or colleges; stigma which stops young people talking about mental health and contributes to a 'culture of silence', making the situation worse (Belfast City Council Youth Forum et al, 2018). In consultations they have identified: lack of adequate provision; uneven spread of available support, including only one residential adolescent mental health facility which is a long way from the families of many children; time taken to receive medication; the vulnerabilities experienced when transferring from child to adult mental health services and adult provision not being tailored to their age or particular needs (Include Youth Consultations 2).

There is limited data about children's *alcohol and drug use* in Northern Ireland as most surveys or studies tend to concentrate on the adult population. Both young people and practitioners are aware of the links between drug use and poor mental health,

expressing concern that not enough is being done to tackle the drugs problem or support young people who find themselves struggling with drug misuse. The casework of organisations working with young people indicates that conditions exacerbated by the use of drugs and alcohol are becoming increasingly severe (Haydon, 2020a: 54). Many young people targeted in the communities where paramilitaries retain power are either drug users or low level drug dealers. Rather than ridding communities of drugs, young people have argued that paramilitary threats and attacks can lead to increased drug and alcohol use to help them cope with their fear (McAlister et al, 2018: 2-3).

Many community drug and alcohol services require a direct referral from a healthcare professional – it is not possible for young people or their families to make a direct referral to statutory services, leading to an over-reliance on services being provided by the community and voluntary sectors (Haydon, 2020a: 56). A particular issue is that there is no dedicated in-patient facility for children with drug and alcohol issues in Northern Ireland. The Regional Adolescent CAMHS inpatient unit (with a capacity of 33 beds, including 2 intensive care beds) is not permitted to treat young people with drug and alcohol related issues unless they have a diagnosable mental health condition. In a consultation conducted by Children's Law Centre in this Unit regarding the *Mental Capacity Act (NI) 2016,* participants were clear that they did not consider the Unit a suitable place for the treatment of those with drug related problems as this is too disruptive a condition to be treated in a ward with young people suffering from mental health issues alone (Haydon, 2020a: 55). Some young people, who do not have a diagnosable mental health issue, meet the criteria for placement in the Secure Care Centre. Whilst this provides them with a safe environment, it deprives children of their liberty and is a short term response without the time or specialist resources required to address the issues underpinning drug and alcohol use.

Experience of residential care was perceived to have contributed to placement out of the community for many consulted about the proposed regional facilities. They argued that prevention was 'not merely about a shift across a number of facilities but a cultural and operational shift across justice and social care' in which staff should work with the child and demonstrate understanding about what the child is going through rather than contacting the police whenever their behaviour is challenging (Walsh, 2020: 10). This reflected previous consultations in which young people with experience of living in care homes considered that approaches to 'risky' behaviour by foster carers - based on discussing and agreeing boundaries without immediately or automatically calling the police - were more difficult in a group living situation where there were too many staff changes and it was difficult to build relationships (VOYPIC, 2014: 23). These children discussed how foster carers use discipline to establish boundaries and resolve difficulties, talking calmly and continuously with the child to address issues and behaviour in a reasonable way. In contrast, 'frequent changes to staff and poor or weak relationships' with staff in children's homes 'make it difficult for children to confide' and 'perceived lack of confidentiality' is 'a barrier preventing young people talking to staff about problems' (ibid: 32). The young people's working group set up to

inform and advise the CSE Inquiry noted that 'young people who have police or social services involvement in their lives can often find it difficult to feel supported' - involvement of a range of professionals can lead to lack of understanding about who is 'on their side' (Neill and Moffett, 2014: 9).

Consultation with care experienced young people about *Child Sexual Exploitation* [CSE] demonstrated that, while the majority recognised the term, they did not have an accurate comprehension of what it is (VOYPIC, 2014: 11). Although they knew how young people might keep themselves safe and suggested what steps could be taken to prevent a sudden sexual assault, 'there was, worryingly, little insight into ways to recognise exploitative relationships' (ibid: 13). They recognised that drugs and alcohol can be used to make young people more vulnerable or provided in exchange for sexual activity, and had experienced going to 'party houses' where drugs and alcohol were prevalent. But they did not recognise how they personally could be vulnerable to being exploited (ibid: 14-15). Care experienced young people discussed how peer pressure to attend parties and 'fit in' can lead to participation in risky behaviour. This may be more acute for those in care because they may feel more isolated than their peers, want someone to care about them, and to fit in (ibid: 15). The CSE Inquiry revealed that young people may not consider themselves to be victims of sexual exploitation, despite acknowledging the vulnerabilities of friends and peers (Marshall, 2014: 12, 38).

Care-experienced children discussing being classed as 'missing' if they did not return to their children's home when they were supposed to or were absent without permission, felt that staff 'over-reacted', leading to what the young people perceived as 'excessive contact with and engagement by the PSNI' (VOYPIC, 2014: 24). A young person's working group informing the CSE Inquiry commented that the 'over-reactions' of staff in a care setting 'could be interpreted as a worker doing what was best for themselves (e.g. ensuring all possible measures were taken should there be a later investigation) rather than what was best for the young person' (Neill and Moffett, 2014: 10). They called for 'a greater balance between, what they considered, bureaucratic reporting and a more young person centred response' (ibid). When young people themselves considered the risk to be low and their behaviour not of particular concern, care staff contacting their friends and others to locate them or conducting a town search became a 'source of irritation and frustration' and was ineffective in changing their attitude or behaviour (VOYPIC, 2014: 27).

Understanding the need for police involvement in certain high risk instances, care experienced young people felt that the police 'are called too often and too readily'; believing 'there must be more effective ways of managing absconding and risk-taking behaviour' (ibid: 24). They perceived 'a lack of confidence amongst children's home staff to intervene when they are concerned that a young person is at risk', prompting the PSNI 'being called prematurely to intervene unnecessarily to protect young people' (ibid: 30). This exasperation was shared by the police. Individual officers interviewed

by the CSE Inquiry 'readily acknowledged that they considered the time spent looking for and returning missing children to be a huge drain on resources' and 'expressed noteworthy frustration' arising from repeated episodes of young people being reported as missing from children's homes (Marshall, 2014: 74). Marshall concluded: 'It would be a better use of public resources if we could make children's homes places where children wanted to be' (ibid: 94).

As noted, looked after children are over-represented throughout the *criminal justice system*, from receipt of cautions and convictions to detention in custody. Amongst children in care aged 10 and over on 30 September 2018, 6% had been cautioned or convicted of an offence while in care during 2017/18 (7% of boys, 5% of girls), with a higher prevalence amongst older children (14% of those aged 16 and over) (Department of Health, 2019: 38).

It is important to recognise that Northern Ireland remains a society in transition from conflict and to acknowledge the impacts of the *legacy of the conflict* on contemporary children. The Commission for Victims and Survivors (2013) estimated that 30% of Northern Ireland's population could be defined 'victims' or 'survivors' of the conflict (i.e., directly affected by bereavement, physical injury, or trauma); 10% of the population had been bereaved; 39% had experienced a conflict-related incident; and levels of Post-Traumatic Stress Disorder were very high. Transgenerational trauma remains a reality for many children (O'Neill et al, 2015; McLaughlin and Swain, 2016). In 2014, the *Stormont House Agreement* agreed a bespoke mental trauma service for victims and survivors of the conflict but this has yet to be established. Failure to implement agreements on dealing with the past, or to adhere to international legal obligations under domestic and international law, have had a detrimental impact on families affected by conflict-related violence (particularly violent bereavement). In many families, relatives pass away without resolution leading to outstanding cases of truth and justice being 'passed on' to the next generation. This causes a new and particular inter-generational trauma (Relatives for Justice, 2018).

Children accused of 'anti-social behaviour' in some communities have continued to face threats, intimidation, exiling and physical attacks by paramilitary organisations, particularly in economically deprived areas associated with high levels of conflict-related violence (McAlister et al, 2009; Martynowicz et al, 2012: 55-56; Haydon and McAlister, 2015: 312-313; McAlister et al, 2018). Lack of disaggregated data collection and monitoring, exacerbated by under-reporting, mean that the real extent of this issue is under-estimated. PSNI statistics for the year January to December 2019 show that there were 67 recorded casualties of 'paramilitary-style' assaults, 5 of which were on children aged under 18 (PSNI, 2020: 1). Research with 16-25 year olds in three different locations found that the most marginalised young people, with complex lives and unaddressed needs, are at most risk of paramilitary violence and exploitation. Young people whose alleged 'anti-social' behaviour has brought them to the attention of paramilitaries often feel pressured not to speak out or seek help, while worrying that

they may still be under threat. Some who have received threats or been physically assaulted by paramilitaries report feeling angry, living in constant fear, not leaving their home, and being suicidal (McAlister et al, 2018). Young people in both Republican and Loyalist communities have confirmed reports of activity by non-state forces, with recruitment to paramilitary organisations often occurring through coercion or in lieu of drug debts (Include Youth Consultations 3). Rather than reinforcing negative assumptions about young people's involvement in 'anti-social' or 'criminal' behaviours, community-based responses need to focus on the broader social and economic factors affecting these communities and, as recommended over a decade ago by the UK Children's Commissioners (2008: 16), relevant authorities must 'recognise and deal with "community justice" on children and young people as child abuse'.

It is an indictment of existing services and support within communities that, for some children, a period in secure care or custody has provided *'respite'* from substance misuse, unpredictable relationships, the pressures of difficult everyday lives, the demands of abusers/ perpetrators of sexual exploitation/ paramilitaries; as well as feelings of safety or stability that they have not had in their community; individualised provision; educational engagement; and opportunities to 'detox' or get fit (CJINI, 2008: 5; McAlister and Carr, 2014; Archibald, 2018: 65; Walsh, 2020: 9).

It is a concern that some young people consulted about proposed changes to regional facilities believed their placement in secure care or custody was *inevitable* – despite anything provided by family, community or statutory services, little could have changed the outcomes they experienced - although the majority suggested that action to prevent their entry into secure care/ custody could have been taken earlier, in the community (Walsh, 2020: 9).

A common issue identified by children consulted about the proposed regional facilities was need for 'a planned, purposeful and sustainable approach to each young person', involving *1:1 support tailored to each individual's needs* and varying from low intensity mentoring services to high intensity, specialised mental health provision (Walsh, 2020: 10). A key issue was individuals having *choice* over what to access and when (ibid: 11).

'Significant adults' - particularly unrelated adults on whom they can rely for support, guidance, assistance and encouragement - play an important role in the lives of many children but especially those in conflict with the law or in care (Martynowicz et al, 2012). Including social workers, foster carers, teachers, youth and community workers, project workers, volunteer 'mentors' or family friends, these trusted adults understand the pressures faced by vulnerable children, give them 'space', are patient, support them calmly and respectfully, are non-judgmental and 'stand by them' when they are going through difficult times or threaten to reject the relationship. In addition to providing practical, personal and emotional support, significant adults help children access available services – showing them how to make telephone calls and arrange appointments, helping them complete application forms and prepare for job interviews, taking them to appointments, meetings and activities – and make time to enjoy trips

out or do relaxing things that other children take for granted (e.g., going out for something to eat, sporting activities, bowling or go-carting, cinema visits, cooking a meal).

International standards

Riyadh Guidelines 24-30 recommend that education systems 'should extend particular care and attention' to young people who are at social risk, developing and utilising specialised prevention programmes, educational materials, curricula and approaches. It is expected that attention will be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse, with teachers and other professionals trained to prevent and deal with these problems alongside provision of information to children. Schools should serve as resource and referral centres for the provision of medical, counselling and other services to young people, 'particularly those with special needs and suffering from abuse, neglect, victimisation and exploitation'. In addition to planning, developing and implementing extracurricular activities of interest to young people, in co-operation with community groups, special assistance should be given to children who find it difficult to comply with attendance codes, and those who 'drop-out'.

As recommended in Riyadh Guidelines 32-35, community-based services and programmes are required which 'respond to the special needs, problems, interests and concerns' of young people, offering appropriate counselling and guidance to them and their families. This should include 'community development centres, recreational facilities and services to respond to the special problems of children who are at social risk' alongside services to 'deal with the difficulties experienced by young persons in the transition to adulthood' including special programmes for drug users which emphasise care, counselling, assistance and therapy-oriented interventions.

Action required

Earlier intervention may prevent young people from arriving on the fringes of care and increase maintenance in their own homes and communities. This requires:

- front-line staff who are adept at the highly skilled task of relationship building with traumatised children
- timely and effective interventions within children's homes to de-escalate tensions
- intervention plans which can keep pace with the speed and intensity of young people's risk-taking behaviours
- a higher level of support during evenings and weekends (RQIA, 2011: 45).

Thirteen years ago, Sinclair and Geraghty (2008: 6-8) advocated development of:

- family support services with sufficient intensity to address problems such as parents' poor mental health, addictions, destructive relationships and reduce the likely impact of such issues on the well-being of children.

They suggested that potential solutions to the difficulties faced by some as a result of the group dynamics and communal nature of residential care include:

- more differentiation in the residential sector (including smaller occupancy, specialist units)
- more one-to-one work with young people
- specialist foster placements with trained and supported carers who can provide intensive one-to-one engagement with individuals
- access to specialist services to address the causes of harmful behaviours.

When considering how CSE could be prevented, consulted young people were keen to avoid scaring children about the possibilities of exploitation and 'adamant that the response should be largely about empowering young people, rather than giving adults more power to control them' (Marshall, 2014: 14). Young people 'want support from caring adults who can spend time to build up the kind of trusting relationships that can both act as a defence against the approaches of those who would exploit them, and also allow them to talk about early fears or actual incidents of exploitation, without experiencing shame or disbelief' (Marshall, 2014: 101).

(ii) Providing support to facilitate the transition of children back to the community

As Marshall (2014: 8) stated, the 'challenge for society is to provide the kind of structure, safety and quality of care' provided by secure facilities 'without depriving young people of their liberty and of the opportunity to develop into individuals who can cope with freedom'.

Children consulted about the proposed regional facilities agreed that 'step down' provision should be part of the process of preparing to leave secure accommodation, incorporated into a clear reintegration plan from the outset (Walsh, 2020: 14).

International standards

The Havana Rules for the protection of children deprived of their liberty note the need to 'constantly seek to increase awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance and to this end active steps should be taken to foster open contacts between the juveniles and the local community' (Havana Rule 8).

All detained young people 'should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release' (Havana Rule 79). They should receive services which ensure that they are provided with suitable residence, employment, clothing, and sufficient means to maintain themselves on release, with representatives of agencies providing such services being consulted and having access to young people while they are detained so that they can assist them in their return to the community (Havana Rule 80). Recognising the

importance of supporting young people who have been detained, the Beijing Rules state that efforts should be made 'to provide semi-institutional arrangements' (eg half-way houses, educational homes, day-time training centres) 'that may assist juveniles in their proper reintegration into society' (Beijing Rule 29.1). The associated Commentary states that the 'importance of care following a period of institutionalisation should not be underestimated', noting the 'necessity of forming a net of semi-institutional arrangements'.

Action required

Sufficient and appropriate support to enable individuals to return to their community following time spent in a secure setting, and to prevent re-admission, should include:

- a gradual return to the community, with whole days out on their own and overnight/ weeekend stays at home before they are discharged
- continuity of healthcare is vital, especially for those requiring specialist services following release from secure accommodation (including services to support those addicted to/ withdrawing from drugs, alcohol, gambling; mental health services; reproductive and sexual health services and support for those who have been sexually exploited).
- appropriate education (including Relationship and Sexuality Education which includes discussion about sex and sexual health, the negotiation of respectful relationships and potentially exploitative relationships; Personal, Social and Health Education, including responses to peer pressure and developing non-violent conflict resolution skills; accurate information about the effects of different drugs and harm reduction strategies)
- training and employment opportunities which are accredited and reasonably paid
- access to personal development programmes to increase their self-confidence alongside on-going guidance and practical support from 'significant adults' (including mentors) to help them make positive changes in their lives and deal with the difficulties they face. This should include provision of easily accessed sources of 24-hour support
- age-appropriate leisure and recreational activities, including access to gyms, sporting and social programmes, to help children maintain fitness and well-being, combat boredom, socialise with others, and develop new interests
- a range of accommodation, in communities where individuals feel safe and comfortable (including supported accommodation in which they receive support with personal development and preparation for independent living).[10]

[10] See Bateman et al (2013); Include Youth (2011).

Multi-agency approach to satellite provision

Despite positive assertions by staff across a range of services about the value of inter- or multi-agency work, Sinclair and Geraghty (2008: 63-64) found that this was hindered by lack of resources, lack of knowledge about roles, lack of commitment from other agencies who perceived Social Services as having ultimate responsibility, and weak infrastructures or clear lines of accountability. Need for more effective inter-agency working and information sharing was a constant theme in the CSE Inquiry (Marshall, 2014: Chapter 7).

Action required

A *multi-agency approach* is required in all provision targeting children and their families, whether this is 'early intervention' or in response to the most vulnerable individuals involved in harmful behaviours. The difficulties undermining partnership working need to be addressed.

Long-term and intensive therapeutic input is required *alongside specialist voluntary and community sector services* 'that have the skills and experience in dealing with adolescents and their problems … and … in building their self-esteem and sense of self-worth' (Sinclair and Geraghty, 2008: 6).

Noting the requirement of a 'holistic yet flexible' approach to children's care - with interventions focused on their 'long term best interests', achieving rehabilitation and reintegration - RQIA (2011: 45-46) maintained that successful interventions will be dependent on meaningful engagement by *professionals who are accessible and innovative in approach/ responses, particularly during times of crisis*.

Close liaison is necessary between community-based services and secure accommodation provision, so that children can build on previous work (eg in school or College) when they enter secure facilities and re-connect with community services when they leave.

Use of alternatives to the Secure Care Centre for children who have been arrested and require a place of safety while awaiting a court appearance

The problem is not that residential children's homes require 'suitable resourcing', but that staff responses to challenging behaviours or breach of bail conditions by children in residential homes lead to involvement of the police and potential arrest.

Action required

What is necessary is training and support for *staff* to ensure that they have the *skills* required *to de-escalate situations*.

When a child in residential care needs to 'cool off' or 'calm down', *alternatives to involvement of the police* and potential arrest should be considered (e.g., access to overnight accommodation or specialist foster care provision).

Use of alternatives to the Secure Care Centre for children being considered for bail, and use of wrap-around services as part of a bail package

The Youth Justice Review (2011: 58) recommended that there should be strict adherence to the *statutory presumption of bail*, supported by: provision of bail information, support and supervision at the first court appearance; application of relevant, proportionate and realistic bail conditions, but only where necessary; the participation of children and their parents in the setting of any bail conditions so that they fully understand and accept their implications; and the availability of an appropriate mix of suitable accommodation.

In 2012, the Northern Ireland Law Commission [NILC] recommended that specific consideration be given to the age, maturity, needs and understanding of the child when setting or varying bail conditions, and that the best interests of the child must be a primary consideration when imposing or varying conditions. It also recommended that bail decision makers must ensure young people understand bail decisions and conditions. Additional recommendations were that Article 39(1)(b) of PACE be replaced with the introduction of new bail legislation which includes a requirement that bail must not be refused on the sole ground that the child does not have any/ adequate accommodation, and that a range of accommodation options be made available for children on bail (NILC, 2012: Chapter 6).

Action required

Alternatives to deprivation of liberty should be considered at all times. Article 39 of PACE legislation should be amended, with the introduction of new bail legislation (as recommended by NILC, 2012).

Bail Supervision and Support Services should be used as an alternative to PACE or remand in custody, with 'wrap-around' services included as part of any bail package. These should include support with accommodation, education or employment, substance use and mental health issues for the young person, plus support for the parents/ carers/ responsible adults who are helping the young person comply with their bail conditions.

Designated supported housing for 16 and 17 year olds

In Northern Ireland, 16 and 17 year olds facing homelessness are supposed to be assessed under the UNOCINI [Understanding the Needs of Children in Northern Ireland] framework and the Regional Good Practice Guidance on Meeting the Accommodation Needs of Homeless 16-21 year olds, with responsibility placed on

social services to provide accommodation and support under the 'Looked After Child' system to 16 and 17 year olds who are assessed as being homeless. However, key issues include *failure to assess young people in a timely manner* and *use of unregulated placements* such as Bed and Breakfast or hostel accommodation. In addition to the inappropriateness of these placements, the type of supports available often do not meet the complex care and health needs of young people placed in such facilities (Haydon, 2020a: 64).

Two recent cases concerned application of the absolute duties of respective Health and Social Care Trusts to provide accommodation to a 'Looked After Child' and to a 'child in need' under Articles 27 and 17 respectively of the *Children (Northern Ireland) Order 1995*, in particular the extent to which these duties are satisfied by the provision of Bed and Breakfast accommodation. There was also an issue of timeframe within which the duties must be discharged, particularly where a child in the youth justice system requires accommodation to secure bail. Article 5 ECHR on the right to liberty and security, and Article 37 of the UNCRC on the detention of a child being used as a measure of last resort and for the shortest appropriate time, were both engaged. The judge noted that Northern Ireland legislation, unlike legislation in England and Wales, has not been amended to provide that a local authority has a duty to provide '*sufficient* accommodation for looked after children' (emphasis added) and considered the sufficiency duty is 'undoubtedly a matter worthy of debate in Northern Ireland when the availability of services and accommodation for children is under the spotlight'. Nevertheless, the judge declined to rule that there was an absolute prohibition on the use of Bed and Breakfast accommodation and to grant specific declaratory relief, on the basis that: (i) the current policy includes clear restrictions upon its use and (ii) that its use should be rare, restricted and heavily monitored (Haydon, 2020a: 64-65). However, subsequently the chair of the RQIA Board (which is responsible for inspecting and monitoring children's care homes and accommodation) drew attention to the practice of placing children in unregulated accommodation, informing the Board that this 'problematic situation' was 'verging on crisis' (Fagan, 2019).

Action required

A range of supported housing (including emergency provision) should be available for use by 16 and 17 year olds in every Trust area, with provision of services to help young people live independently and sustain tenancies.

Social Services and the Housing Executive should work together to fulfil their statutory responsibilities.

GOVERNANCE AND ACCOUNTABILITY

The most appropriate accountability arrangements for the regional facilities

Welfare, well-being and development of the child should be the priorities in any intervention, therefore the Department of Health should be the lead Department, rather

than the Department of Justice, with significant funding provided by the Departments of Justice, Education, Employment and Learning, Community to ensure provision of the range of services required to meet the needs of vulnerable children.

Within the Consultation Document reference is made to a 'Secure Care Centre', a 'Care and Justice Campus', and 'regional facilities', with some cross-over in definition. Perceiving intervention within the context of a continuum of care and support services would reinforce the conceptualisation of secure accommodation as the last resort in a range of responses intended to enable vulnerable children to live safely in their communities.

If a title is necessary, the name of any secure accommodation should reflect a focus on 'care' rather than 'justice'.

Use of the terms 'Campus' and 'satellite provision' imply that the services being considered for the most vulnerable children are separate from other provision intended to meet children's needs.

As noted, community-based provision should be the priority as part of a continuum of services providing care and support to vulnerable children and their families.

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