CHILDREN'S COMMISSIONER

The criminalisation of children in care

November 2025

CHILDREN'S COMMISSIONER

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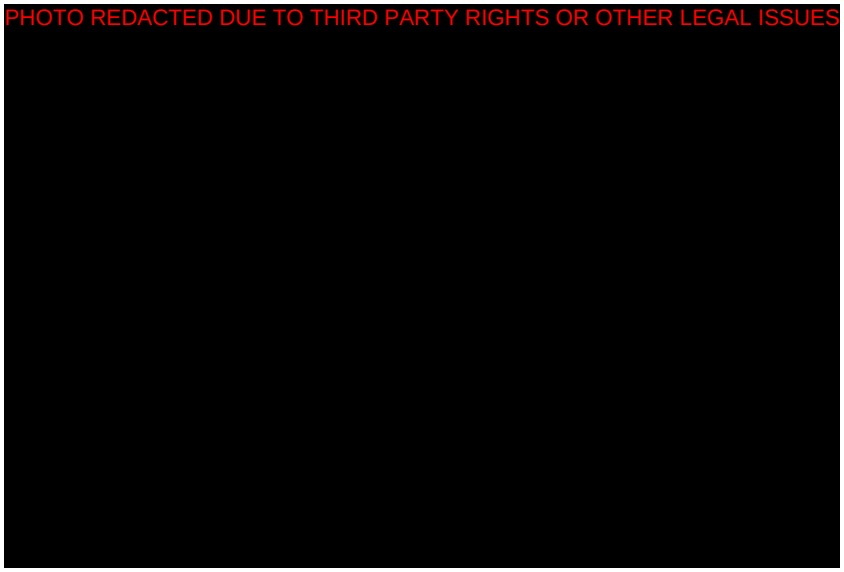
Foreword from Dame Rachel de Souza



It is often said that the best judgement of a civilised society comes by looking at how it treats its most vulnerable citizens.

If that is the case – and as Children's Commissioner it is a guiding principle – then this report offers a stark warning to society.

Time and time again, we see cases of children who have been abused, exploited or even groomed by adults being subjected to discrimination and punishment – often, to a far greater extent than any adult perpetrator.

These children are stigmatised, ostracised, sidelined. Their voices are deemed unimportant; often, shamefully, because they come from some of the most challenging and most troubled backgrounds. They are considered 'hard cases'.

Too often, they have been in care. Nearly half (49%) of children in care who are ever given a caution or criminal conviction came into contact with the justice system after they went into care, not before. Their experience of the criminal justice system can be unsettling, often exacerbating existing trauma or anxiety by being contained in settings that are unsafe, where educational opportunities are limited, and where reports of sexual abuse by staff are not uncommon.[1]

In other words, instead of care and support to overcome entrenched difficulties (children who come into contact with the justice system disproportionately come from poverty, or have special educational needs),[2] our response to these children is one of retribution, up to and including a criminal record.

As Children's Commissioner, a question that guides me every day is "would this be good enough for my child – or for yours?" If the answer is no, then we must step up and do better.

For these children, those in the care of the state – *our* children, *our* responsibility – that answer is too often no. Standards are woefully poor, expectations even more so.

My advocacy team Help at Hand is at the frontline of cases like the ones documented in this report. Children with complex needs or disabilities whose behaviours require significant care from expert professionals, are criminalised for lashing out and damaging property. My case workers tell me time and time again about instances of children's homes calling the police because a child breaks something.

Of those children who had their first contact with the justice system only after entering care, they are more likely than other children ever found guilty to be initially charged with assault or criminal damage under the value of £5,000.

For any other child, these would not be 'incidents' documented in writing. There would be no report, no police involvement. They would usually be handled by parents or other caregivers in private, where children are allowed to be children.

Earlier this week I had the privilege of delivering this year's Longford lecture, on the subject of prison reform – specifically, on how to prioritise rehabilitation for the young people who end up in the criminal justice system, to create a system that supports them back into society.

During this lecture, I told the story of a young girl whose story I recently because aware of.

Her early life was beset by some of the most fundamental challenges that a young life can face. Eventually, her complicated needs and behaviours - the consequences of early trauma - led to her family urgent requesting help caring for her. They wanted to do more for her – but their pleas for support were ignored.

During one night of crisis, while in acute distress her behaviour became unmanageable. With no other help forthcoming, her parents called the police for assistance and support to get her the care she needed.

Instead, the police arrested her and remanded her into custody.

Instead of a child making a mistake, she became a criminal.

Instead of help and support, society offered its harshest judgement.

Now she is 'in the system', stuck in a cycle of unmet needs, fear leading to violence, with little stability away from her family.

And she is not alone. It can be seen in how society treats many children like her, with complicated and difficult backgrounds – especially young girls. I see it in the treatment of the victims of grooming gangs in Rotherham, and other areas, where as a country, we turn a blind eye to abuse and violence against them by dangerous, predatory men.

This report does not specifically address the way these girls were exploited, nor the multiple ways children like them are criminalised - but their stories highlight the consequences of not treating children as children. Their stories represent a much wider problem: when it comes to children in care, whose short lives have been shaped by the kind of trauma and abuse most of us cannot even imagine, we take away their innocence. We allow the national conversation to be dragged away from themes of corruption and abuses of power by adults, towards discussion of children's behaviours, placing adult responsibilities and choices on them despite their ages and vulnerabilities.

They were children. That is all that should matter. It should be the single most important thing when deciding how to respond.

Instead, we allow their voices to go unheard time and time again, and their experiences swept under the carpet – because they are 'hard cases'.

Supporting them to achieve, even thrive, will require a far more ambitious approach to public services than has ever been achieved, one where children's services are no longer the junior partner but equal partners with schools, health services and youth justice settings. Where investment is focused on creating safer, familial homes for children, not ones that perpetuate fear and violence.

Where children's voices and views are at the heart of reform, with their wellbeing and security prioritised by professionals.

If we are judged by how we treat our most vulnerable people, there can be no 'hard cases'. Every child deserves equal chance of a childhood full of opportunity. Our ambition for these children – our children – must be limitless.

Executive Summary

The overrepresentation of children in care in the criminal justice system is sadly well known – and this report shows that while most children in care won't offend, they are ten times as likely to have ever been found guilty of an offence than children not in care (27% compared to 2.2%).

There are many theories and factors affecting why this is. On the one hand care has increasingly become a response to criminal behaviour – far fewer children are entering custody,[3] and care can be part of a safeguarding response to children who have been criminally exploited.[4] On the other hand, care itself might be seen as a driver of criminalisation – by responding to challenging behaviour with a police response, rather than a familial one.[5]

And for whatever reason a child comes into care, the experience of abuse, neglect, and a lack of caring family may make children more vulnerable to exploitation or involvement with criminal behaviour.

This report allows us to examine in more detail how care itself may be driving criminalisation by 'over-policing' children's challenging behaviour. The report therefore focuses on children who have no previous history of offending – not because they are the only children at risk of this 'over-policing' but because there is potentially more to be understood about how this works in practice when considering those children who have not been in trouble with the police before.

It reveals that of care experienced children who ever received a caution or conviction from the criminal justice system, nearly half (49%) have their first contact with the criminal justice system after they come into care.

These children are much more likely to be charged with assault against the person, criminal damage under £5,000 and assault against a constable. Many of these are the kinds of charges which research,[6] as well as the experience of the Children's Commissioner's Help at Hand service, shows are made against children displaying challenging behaviour in care.

To have police called can in and of itself be deeply upsetting and destabilising for children. But the report also highlights how children who have their first contact with police after coming into care then progress through the criminal justice system

It shows that there appears to be a particular issue when it comes to the experience of girls in care. Of all girls who are cautioned or convicted,[i] nearly 1 in 5 (19%) had their first contact with criminal justice after they first entered care. That is twice as likely as boys who have been convicted of an offence where 9.1% had their first interaction with criminal justice after first entering care.

The report also examines how children's placement type may contribute to criminalisation. 37% of children ever found guilty who committed their first offence while in care were living in a children's home at the time, even though only 12% of children in care are placed in children's homes, suggesting children in children's homes are more at risk of criminalisation.

Again, it appears that girls may be particularly disadvantaged by living in a children's home. While in the general population boys are almost four times more likely to have ever been found guilty than girls, this reduced to only 50% more likely when looking at children who were sentenced while living in a children's homes.

In addition, there is a notable trend when looking at a child's ethnic background, with children living in a children's home with a black or mixed ethnic background most likely to have received a caution or conviction. Children with a black ethnic background were about 14% more likely to have received a caution or conviction while living in a children's home than children with a white ethnic background.

Finally, the report seeks to understand some of the mechanisms of this criminalisation. Data was requested from police forces and none of them were able to monitor how many times they had been called out to children in all care settings.

The data reveals the from the nine out of 43 forces that could provide information on just call outs to children's homes there were over 4,627 attendances. Notably Ofsted data on all notifications across

[i] This includes children who were never in care.

the country only shows 2,281 call outs – showing there are many thousands of police incidents not judged to meet the threshold for notifying Ofsted.

Even though all forces should all have protocols in place for reducing the criminalisation of children in care, only three forces mentioned this protocol when asked what they do to reduce the criminalisation of children in care.

Vision for reform

The office recommends the following key levers for driving reform to prevent children in care from being criminalised

- An enhanced joint protocol to prevent children being criminalised. The Ministry of Justice, Department for Education and the Home Office must review the guidance on reducing criminalisation of children in care and care leavers, and make it statutory. There must be a clear process for monitoring the effectiveness of its implementation across local authorities and police forces.
- Stronger diversion routes for highly vulnerable children: The forthcoming national Youth Strategy should establish a strong foundation of youth work provision nationwide and remove unnecessary barriers to children in care accessing diversion schemes – including the requirement often in place for a formal admission of guilt. All child victims of crime have access to holistic therapeutic support, including through a sustainably funded national network of Child Houses, modelled on Camden's Lighthouse.
- A child friendly prosecution process: The uplift in legal aid for lawyers representing children be matched with mandatory, specialist training and the Crown Prosecution Service must assess and monitor the impact of its work to gather information on the protection of looked after children.
- Stable and high-quality homes for children: There must be direct investment in children's homes to drive up supply. Currently too many children in care are placed far from home, are separated from their siblings, or are forced into inappropriate settings that cannot meet their needs.
- Safe and caring secure settings when needed: The Ministry of Justice must plan to close all YOIs, to be replaced with a network of alternative secure settings that can meet children's needs. All children in custody should be considered looked after children.

1. Introduction

The issue of children in care having relatively high levels of involvement with the criminal justice system is far from a new one. It is well documented that nearly half of the population in youth custody have some experience of being in care,[7] and research has repeatedly shown that children in care are more likely to receive convictions or cautions.[8]

There are many reasons that this might be the case. Children in care are likely to have experienced neglect, abuse, and separation from those who loved them, or should have loved them. This likely makes them more vulnerable to becoming targets to those who would seek to exploit them for criminal gain, or from being drawn into criminal behaviour. While care should be a safe, loving place where children can be safeguarded from further criminal behaviour, this is not always the case.

But there is another element that is also at play, namely the 'over-policing' of children in care. This is where police are called to a care setting to deal with behaviour that if it occurred in a family home would not lead to police involvement – for example, damaging furniture, or hitting carers. This is not to underestimate the level of challenging behaviour children may show, but that is all the more reason to believe they should be cared for by those with the training, resource, and support systems to allow them to manage it.

At the point where a child displays such behaviour there are different options available. To call police or not. For police to arrest and charge a child, or not. For the CPS to decide to take the case forward, or not. For judges or magistrates to take into account a child's circumstances, or not. Yet too often the Children's Commissioner's Help at Hand team has been involved in cases where at each step the decision has been to continue further down the criminal justice route, as these case studies below illustrate.

Jimmy's story

Jimmy is a child with autism and significant emotional and behavioural difficulties. His parents were committed to his care but they needed help. The right help could not be found and Jimmy came into care, in an illegal children's home where he was just being contained. This meant that he could not play outside or go to school. He was just being watched, all the time, by a constantly changing rota of agency staff. One day Jimmy threw something that hit one of these staff members. They were not seriously injured but the police were called. Jimmy was charged and then convicted. He, a disabled child, had to pay a fine.

Salma's story

Salma, has had an extremely difficult and traumatic start to her young life and is in care. She has significant mental health difficulties and has been sectioned. She needs to be fed with a tube. One day she lashed out at one of the nurses. Salma, to her great distress was charged by the police for this. The Help at Hand team and her social work team expressed their dismay at this result. It was only after months of added distress and legal process that the charges were dropped before court.

There have been responses to this at both the national and the regional level, most notably *'The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers'*, non-statutory guidance developed in 2018 by the Home Office, Ministry of Justice and Department for Education.[9] While somewhat lacking in ambition – not least in its suggestion that there is a degree of 'necessary' criminalisation of children – it set out a framework for tackling the factors driving 'over-policing' of children in care. However, one of the recommendations was for every local area to have a local protocol, and to monitor its implementation. Yet there is no record of how many of these have been developed, or who is holding local partners to account if they are not in place.

This report therefore sets out to understand whether enough has been done on this issue, or whether there is a need for a renewed focus.

It does so by primarily considering the children who only have their first contact with the criminal justice system after coming into care, the types of offences they are charged with, and the kind of placements they are in. This is in an effort to best understand this idea of 'over-policing' and how the

care system itself might be increasing children's contact with criminal justice systems. Of course, those children who have offended before coming into care are equally deserving of protection from excessively punitive responses to their behaviour – may indeed be more in need of protection, if their histories create bias against them. But to understand what role care plays, it is most telling to look at those children where the offending that leads to a caution or conviction has only happened after coming into care.

2. Children who have contact with the criminal justice system after coming into care

The office examined a cohort of children born in England between 2000 and 2002 – see the infographic on the next page. The office identified these children's care experience across their childhoods, as well as their criminal justice involvement between 2010 (the year when the oldest in the cohort first reached the age of criminal responsibility, age 10) and 2020 (the year when the youngest in the cohort first reached adulthood).

While the majority of children with care experience never received a caution or conviction, they were ten times more likely than children with no care experience to have done so. In total, 27% (10,038 children) of the care experienced cohort had ever received a caution or conviction, compared to 2.2% (34,478 children) of the non-care experienced population.

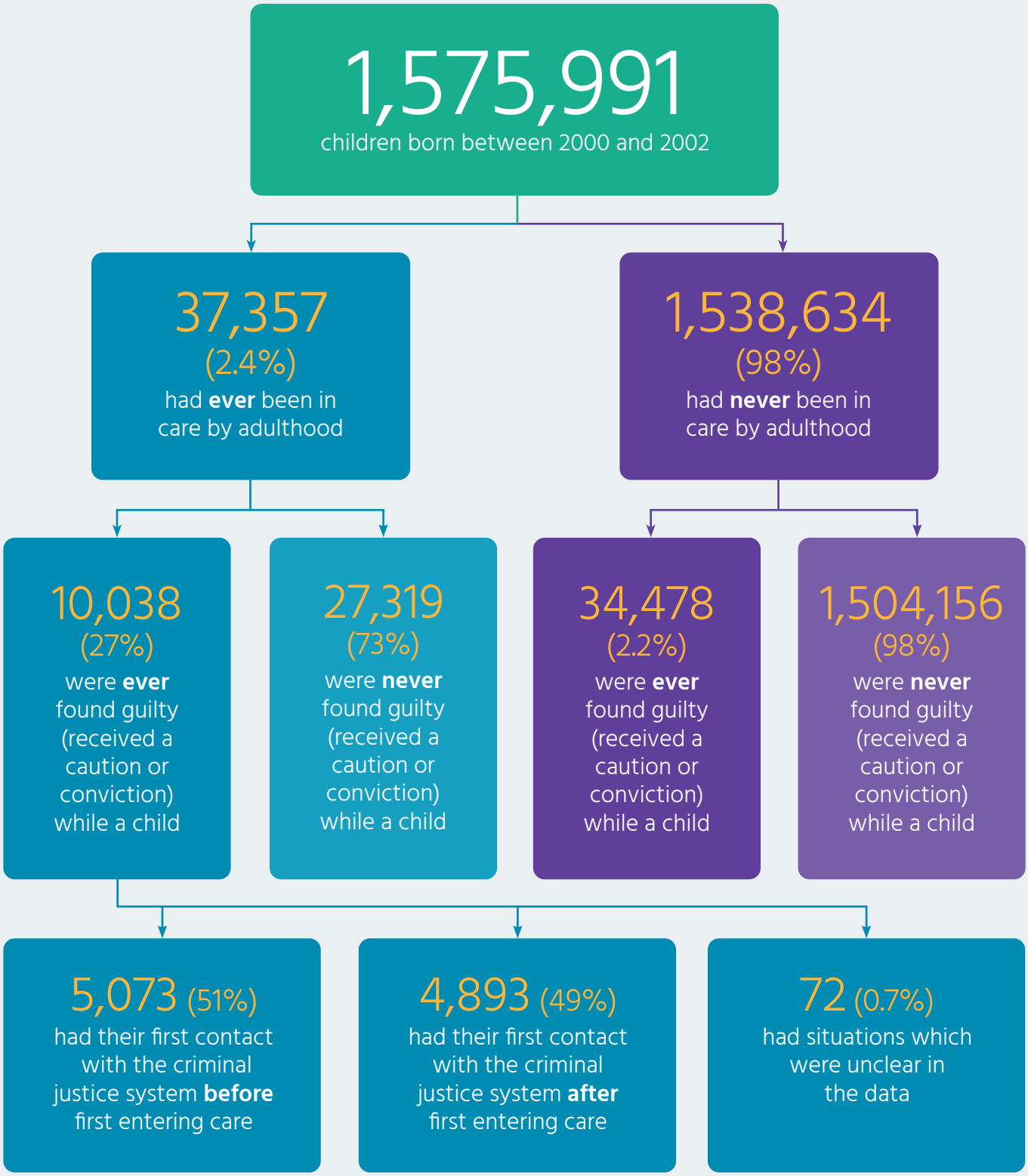
Of those children who had both ever been in care and ever been found guilty (ever received a caution or conviction), roughly half (49%, 4,893) had been in care before their first contact with the criminal justice system. And of these 3,006 (61% of the 4,893; or 30% of the 10,038) were still in care at the time of that first contact.

That so many children are first having contact with the criminal justice system after coming into care is potentially very revealing – it suggests that the care system itself is not doing nearly enough to prevent those with no history of offending behaviour from being drawn into criminality, and is potentially itself creating a problem.

It is notable that these children have not been identified as children with a history of poor behaviour. In fact, out of the 4,893 children ever found guilty who were already in care before their contact with the criminal justice system, only 3.6% first entered care due to socially unacceptable behaviour. This compares to 4.7% of all other children in the cohort ever in care, most of whom had no contact with the criminal justice system.

Figure 1. The cohort covered by this report's analysis, broken down by children's care experience and involvement with the criminal justice system (see infographic below)

Children born in England between 2000 and 2002 broken down by children's care experience and involvement with the criminal justice system



Note: 1,702,279 children were born in England between 2000 and 2002; 1,575,991 (93%) children born between 2000 and 2002 could be detected in the data, from the Department for Education's and Ministry of Justice's linked dataset.

2.1. Types of first offence

This of course raises the question of – why are these children coming into contact with the criminal justice system? There are no simple answers to this, and as the analysis below shows, children ever found guilty who first offend after coming into care were charged with a range of offences (Figure 2).

However, it is notable that there is a different pattern in those offences, when compared to all other children ever found guilty of an offence. Children ever found guilty who first offend after coming into care were much more likely than all other children ever found guilty to have a first offence of:

- Common assault and battery – 20% compared to 14%
- Criminal damage under the value of £5,000 – 15% compared to 8.4%
- Assault on a constable – 2.7% compared to 1.3%

But it was less likely for their first offence to be:

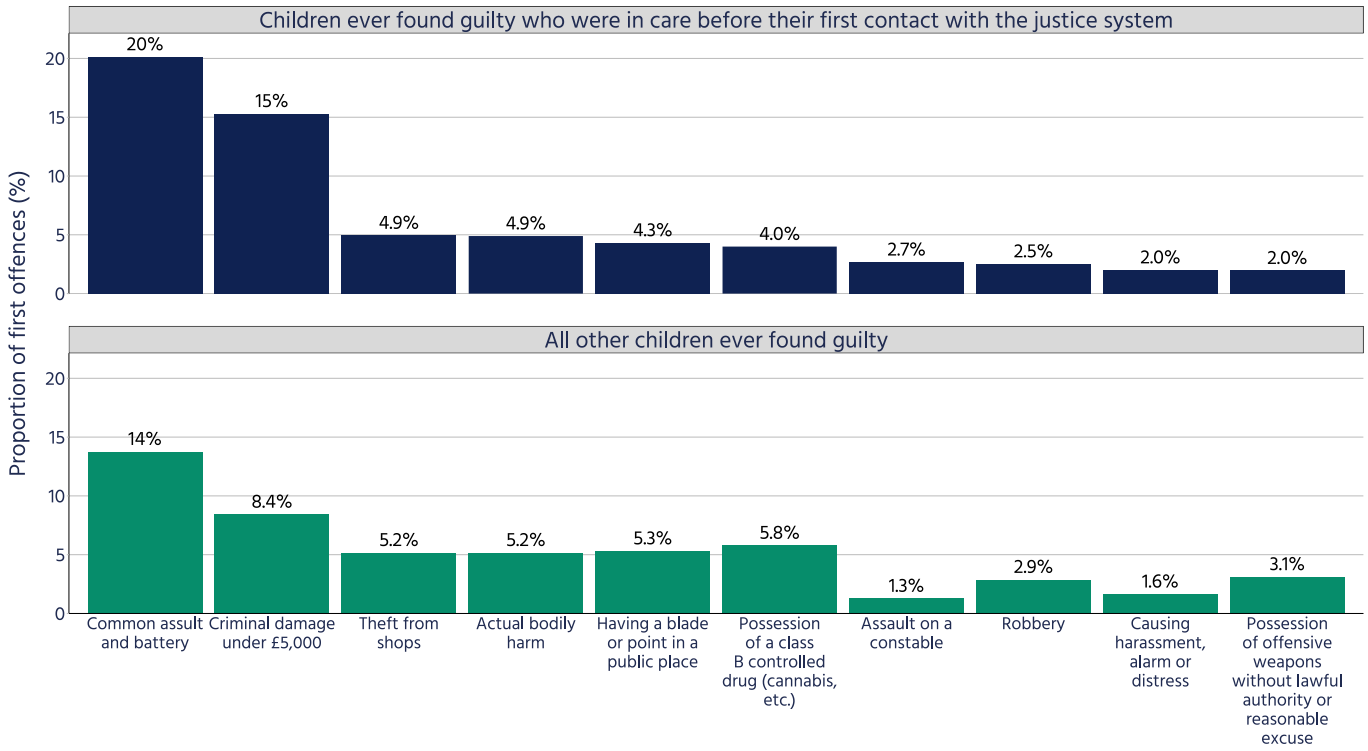
- Possession of a class B controlled drug – 4.0% compared to 5.8%
- Having a blade or point in a public place – 4.3% compared to 5.3%
- Possession of offensive weapons without lawful authority or reasonable excuse – 2.0% compared to 3.1%

There are limits to how much can be said about the higher likelihood of these offences, given we do not know the victim of the offence or their locations. But it is notable that many of the concerns about the impact of care on children are that incidents – including violence towards carers and damage to homes – get a police response which would not happen in a family home, which can in turn escalate to violence towards those police officers.

This analysis of first offences of children appears to support the idea that for many children who come into care, they are being brought into the criminal justice system by the very people who should be protecting them from it.

Of course, this also shows that children in care are committing a range of other offences – this is not to say that reducing police call-outs or improving the response to behaviour will be the only thing needed to reduce criminalisation of these children, but it reveals for the first time how significant a role it might play.

Figure 2. Top ten most common first offences of children ever found guilty who were in care before their first contact with the justice system, compared to first offences for all other children ever found guilty



Note: If a child committed multiple types of offences on the first day that they committed an offence, each of those offences are counted individually. The ten offences plotted here cover 63% of all first offences for children ever found guilty who were in care before their first contact with the justice system, and 53% of all first offences for all other children ever found guilty. The top ten for both groups was identical, except 'assault on a constable' and 'causing harassment...' were not in the top ten for all other children ever found guilty. In their place were 'using motor vehicle uninsured against third party risks' (2.9% of first offences) and 'driving, causing or permitting a person to drive other than in accordance with a licence' (2.8%).

2.2. Children's journey through the criminal justice system

This section explores how those children who offend for the first time after coming into care fare as they progress through the criminal justice system, highlighting in particular the groups where the care experience itself appears to have a disproportionate impact on their outcomes.

2.2.1. Cautions and convictions

Contact with the criminal justice system is less common among girls. In total, 1.2% (8,850) of all girls in the cohort had ever been found guilty (had ever received a youth justice caution or conviction), compared to 4.4% (35,666) of boys.

Of these girls, 19% (1,664) were in care before they had their first contact with the criminal justice system. This percentage is twice as high as the 9.1% (3,229) for boys, suggesting that children's social care is less effectively safeguarding girls in care from offending – more research is needed to explore this finding.

Overall children who ever had an Education, Health and Care Plan (EHCP) were more likely to have ever been guilty than other children. Of these children, 10% were ever found guilty of an offence, almost ten times higher compared to 1.0% of children who were never identified with special educational needs (SEN). Of these children ever found guilty, 24% of children who ever had an EHCP had been in care prior to their first contact with the criminal justice system, compared to 4.4% for children never identified with SEN.

Children with black or mixed ethnic backgrounds were more likely to have contact with the criminal justice system. 5.2% of children with a mixed ethnic background, and 4.9% of children with a black ethnic background, were ever found guilty. This compares to 2.7%, 2.6% and 1.5% respectively for those with white, other and Asian backgrounds.

And of children who had ever been found guilty, 14% of children with a mixed ethnic background had been in care prior to their first contact with the criminal justice system. This was 11.1% for children with a white ethnic background; 10.8% for black; 7.5% for other; and 6.3% for Asian.

2.3. Pleas of first offenders

This report was interested in understanding if there are differences in how children in care plead compared to other children. The criminal justice system provides various incentives for people to plead guilty, for example in reduced sentences – but it is known that some groups are less likely to plead guilty.[10]

Plea data was available from youth courts, however data on children who were never found guilty of any offence is absent from the Ministry of Justice portion of the MoJ-DfE linked data. As such, the analysis focused on the first recorded pleas made by each child on their earliest offence date, for children who were ever found guilty of at least one offence.

In total, 1.9% (29,590 children) of the entire cohort[ii] had at least one appearance at a youth court, and were ever found guilty by any court.

Out of all children with at least one youth court appearance and ever found guilty, 27% had ever been in care: 15% (4,292) entered care after their first contact with the justice system; and 12% (3,446) had entered care prior to their first contact.

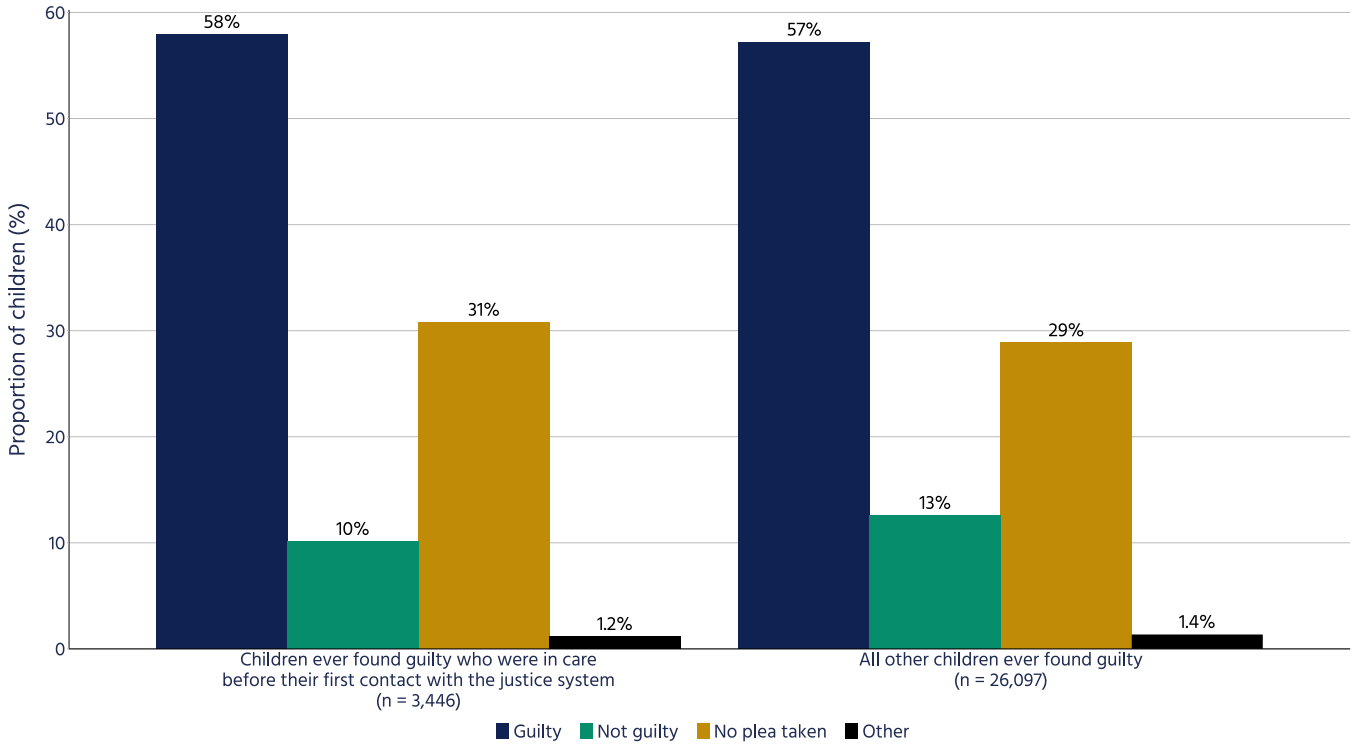
The office's analysis looked at, for each child, the first and final pleas they made at their court appearances for their offence which first received a verdict at a youth court. Unlike elsewhere in this report, this does not necessarily concern the first offence each child committed – it may be that an offence committed later nonetheless reached a verdict in court first. This is important to the hypothesis this analysis aims to test, as the office sought to understand how children pleaded when first taken to court, and whether that differed by care experience.

Among the 29,590 children, for their first offence which reached a verdict at a youth court, 45% (13,426) pleaded guilty at their first court appearance, and 57% (16,953) pleaded guilty at their final appearance (Figure 3).

[ii] Children born in England between 2000 and 2002.

Children ever found guilty who were in care before their first contact with the justice system were slightly less likely to plead not guilty as their final plea – 10% compared to 13% of all other children ever found guilty.

Figure 3. Final plea made by children ever found guilty, by their care experience



2.3.1. Ethnicity

This analysis by ethnicity is performed only on children who were ever found guilty, and were in care prior to their first contact with the justice system.

Of these children, those with a white ethnic background were the most likely to make a guilty plea as their final plea, and children with a black ethnic background were least likely: 60% with a white ethnic background made a guilty plea as their final plea; as did 49% of those with a black ethnic background. This was 57%, 56% and 53% respectively for children with Asian, mixed and other ethnic backgrounds.

2.4. Sentences of children

There is strong evidence that children in care are more likely to receive custodial sentences than their peers. According to the Office for National Statistics, by age 24, 15% of looked-after children had received an immediate custodial sentence, compared to less than 1% of children who had not been in care.[11]

Additionally, some children in care have reported feeling discriminated against in court due to their care status.[12]

2.4.1. Custodial sentences

Among the whole cohort of children, 0.29% (4,604 children) ever received a custodial sentence.

Of children ever found guilty who had been in care prior to their first contact with the justice system, 12% ever received a custodial sentence. This compares to 6.7% for children ever found guilty who were never in care; and 34% for children ever found guilty who were in care after their first contact with the justice system. Further research is needed to understand the nature of the offences, and whether this shows children who are in care are receiving harsher sentences than other children.

3. The relationship between care placement and criminalisation

The previous chapters examined how many children had contact with the criminal justice system after coming into care, what those offences were, and what kinds of outcomes they had. This chapter examines the relationship between children's placements and their chances of becoming involved in criminal behaviour while in care, to better understand which parts of the care system might be contributing most to the 'over-policing' of children in care.

3.1. Placement type

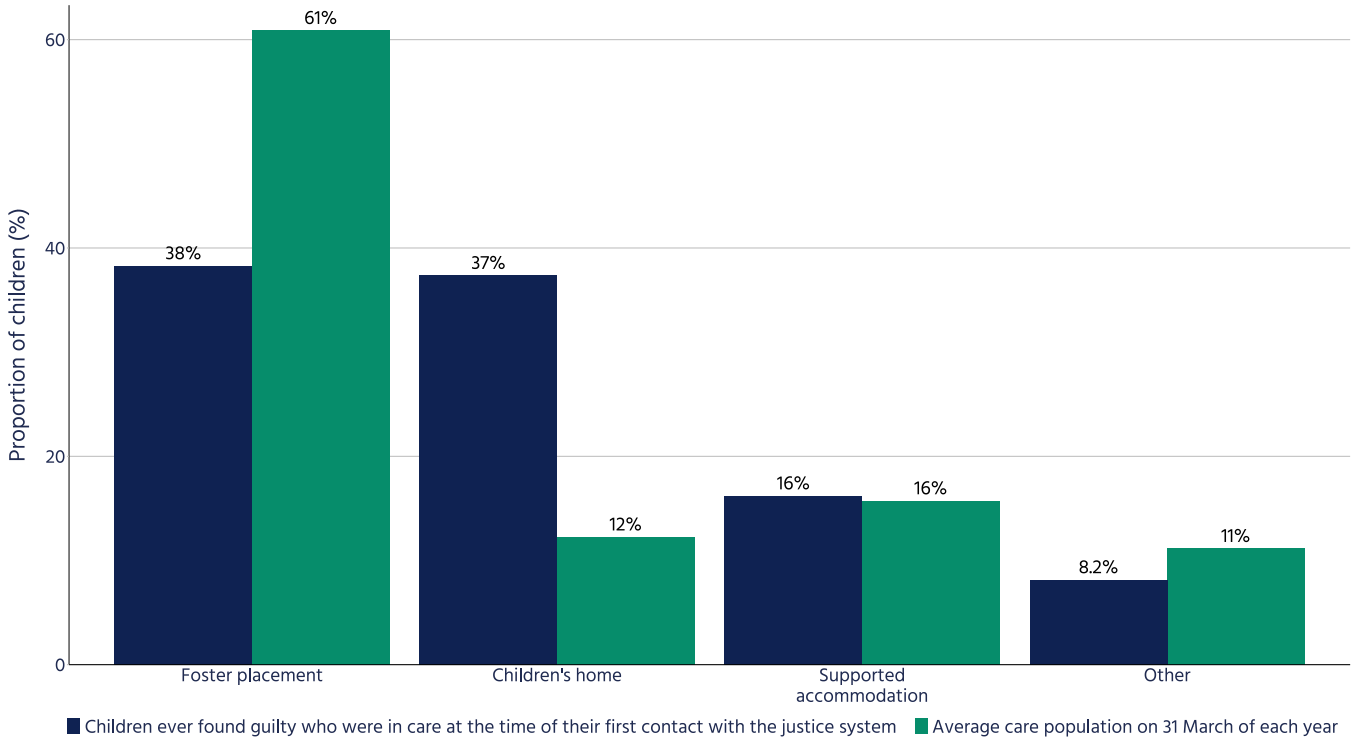
Of 4,893 children ever found guilty who were in care at any time prior to their first contact with the criminal justice system, 3,006 (61%) were still in care at the time of that first contact (the remaining 39% had left care between first entering it and their first contact with the justice system).

Of these 3,006 children, they were most commonly in foster placements (Figure 4). 38% (1,151 children) were in foster placements, and a further 37% (1,123 children) were in children's homes.

This shows that the group of children who offend for the first time while in care are disproportionately likely to be in children's homes, given that only 12% of children in care are placed in children's homes on average.

This finding, combined with the kinds of offences discussed in the chapter above, suggest that children's homes themselves could be playing a role in bringing children into contact with the criminal justice system for the first time by over-policing children's behaviour.

Figure 4. Care placement location of children ever found guilty and who were in care when they had their first contact with the criminal justice system, in comparison to the average placement location of children in care in the cohort



Note: The green bars on the right represent the placement locations on 31 March (the date up to which statistics are annually gathered by the Department for Education) averaged over the period 2010 to 2020 for all children ever in care in the cohort. This represents the period between the oldest in the cohort reaching the age of criminal responsibility, to when the youngest in the cohort reached adulthood.

This is of course not to say that this over-policing is only a concern for children who have had no contact with the criminal justice system before, or indeed that it is the only matter that needs to be addressing when considering ways to reduce the criminalisation of children in residential care.

Across the whole cohort,[iii] 7,613 children had ever lived in a children's home, of which around a third (32%, 2,466 children) had ever received a youth justice caution or conviction while living there.

Of the 2,466 children who received a caution or conviction while in a children's home, for 43% (1,049 children) this was their first caution or conviction. The remaining 57% (1,417 children) therefore had received at least one additional caution or conviction before entering a children's home. This means more than half of children with a prior caution or conviction went on to receive another after entering a children's home. This means there is clearly much more work needed to ensure that those children are equally protected from further involvement with the criminal justice system.

3.1.1. Gender

While boys living in children's homes were more likely to have received a caution or conviction while living there than girls, the difference between boys and girls was less severe than in the general population. 38% of boys living in a children's home were found guilty of an offence – received a youth justice caution or conviction – while living there, compared to 24% of girls. This means that that boys living in children's homes were roughly 50% more likely than girls to have been found guilty of an offence. This is in contrast to the whole cohort, among which boys were almost four times more likely to have ever been found guilty of an offence than girls: 4.4% of boys compared to 1.2% of girls. This suggests that girls living in children's homes may be at greater risk of being criminalised.

[iii] Children born in England between 2000 and 2002.

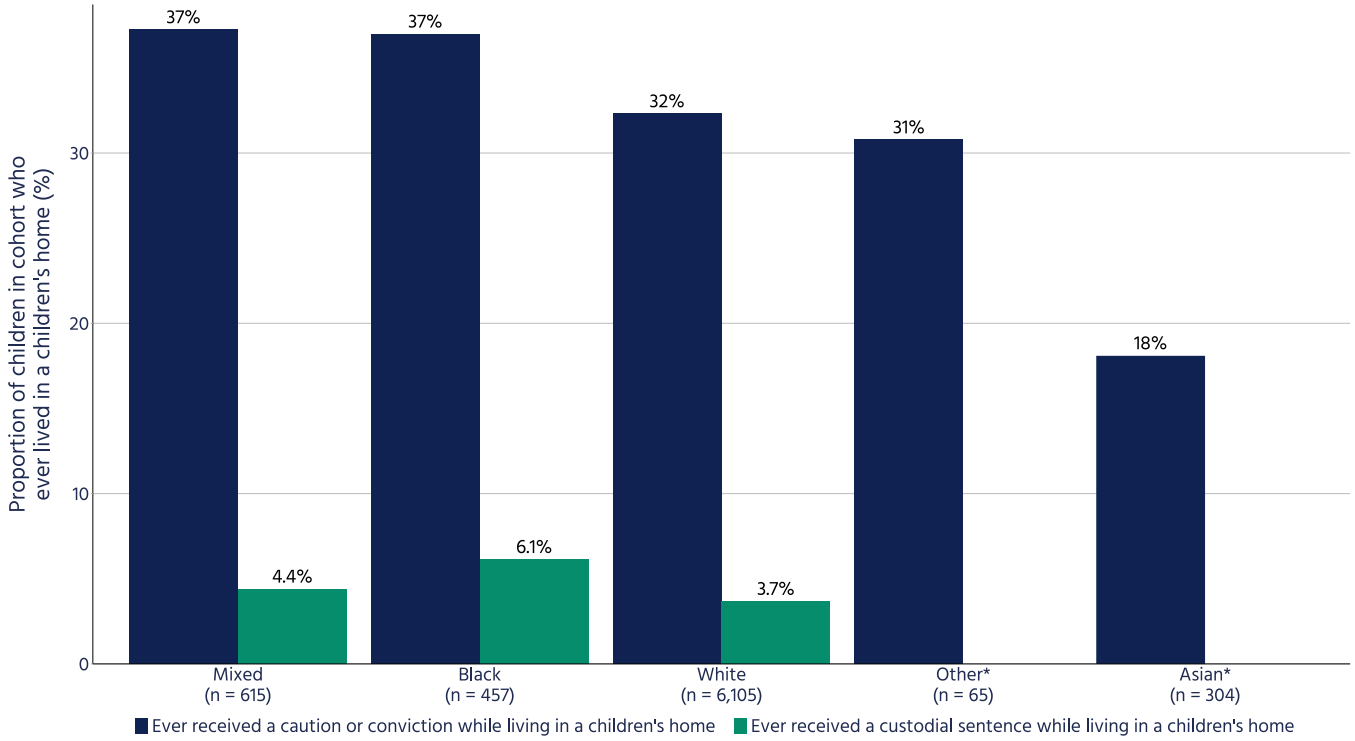
3.1.2. Ethnicity

Among children in the cohort who ever lived in a children's home, children living in a children's home with a black or mixed ethnic background were most likely to have received a caution or conviction (Figure 5). Of those living in a children's home, 37% (229 children) of children with a mixed ethnic background and 37% (169 children) of children with a black ethnic background received a youth justice caution or conviction. This compares to 32% (1,972) for children with a white ethnic background, such that children with a black ethnic background were about 14% more likely to have received a caution or conviction while living in a children's home than children with a white ethnic background.

For comparison, in the whole cohort of children, 4.9% of children with a black ethnic background were ever found guilty of an offence, as were 2.7% of children with a white ethnic background. This means that, across the whole cohort, children with a black ethnic background were 80% more likely to ever be found guilty of an offence.

Children living in a children's home with a black ethnic background were similarly more likely to have received a custodial sentence. 6.1% (28 children) of children with a black ethnic background received a custodial sentence while living in a children's home (Figure 5).

Figure 5. Proportion of children who ever lived in a children's home who received a caution or conviction while living there, and who received a custodial sentence while living there, by ethnicity



Note: An asterisk (*) indicates that data has been suppressed around cases with small sample sizes for the purposes of disclosure control.

3.2. Placement out of area

For the 3,006 children who were in care at the time of their first contact with the criminal justice system, the majority (56%, 1,680 children) were in care placements within the boundaries of their home local authority. The remaining 44% (1,326) children then had been placed outside their home authority.

Between 2010 and 2020, the number of looked after children placed outside their home local authority slightly increased, from 37% of all placements to 41%.[13] As this range is, across the whole period, below the 44% for children who had contact with the criminal justice system while in care,

this suggests that children placed outside their home local authority are at higher risk of being criminalised.

4. The policing of children in care

This report has highlighted how many children coming into care are then going on to commit their first offence while in care; with children often committing offences that could be associated with the type of challenging behaviour often seen in a home; and that they are disproportionately likely to be in a children's home. This suggests that there is much more work to be done on reducing the involvement of police in the management of behaviour. This chapter examines what is known about how police respond to incidents involving children in care.

4.1. Police call-outs to children's homes

To understand what the interaction is between police and care settings for children in care the office used its statutory powers to request data from all 43 police forces in England and Wales. The office asked how many times in the financial year 2024-25 officers had attended calls to incidents in children's homes, households with children living in foster care, and supported accommodation for 16- and 17-year-olds, excluding calls for missing episodes or 'safe and well' checks.

Mostly, forces were unable to provide this information, with no force able to provide the number of times officers attended all three types of home. At best, two forces, Norfolk Constabulary and Suffolk Constabulary, were able to provide two of the three numbers, but none of the forces were able to provide the number for households containing foster children.

Of the nine forces which provided numbers, they attended 4,627 incidents at children's homes in 2024-25, for an average number per force of 514.[iv] While this data is patchy, it shows that police are attending incidents in children's homes at least thousands of times a year for reasons other than going missing and wellness checks, and if the responding forces are typical, police forces nationally may be attending tens of thousands of incidents. For comparison, the number of children in care living in children's homes and secure children's homes on 31 March 2024 was 8,540.[14]

[iv] These call-outs may have been repeat call-outs to the same homes, children or even incidents over the course of the financial year, or they may have been widely spread over homes, children and incidents.

4.2. Procedures to monitor incidents involving looked-after children

Forces were also asked to detail what procedures they had in place to monitor their response to incidents involving looked-after children. Most forces reported that did not have specific procedures for looked after children. For example, one force reported that "our safeguarding, referral and recording processes remain the same regardless of age, looked after status etc". Some forces did not have procedures in place, but were working towards them, for example the one force which mentioned recent data improvements to allow monitoring of incidents involving children in care from 2025 and also mentioned that it follows the 'reducing criminalisation of looked-after children and care leavers' protocol.

In a few cases, specific procedures were mentioned. However, only three forces specifically mentioned a protocol on reducing the criminalisation of children in care, and a fourth force had a draft protocol in place. One force outlined that their protocol had "an emphasis on restorative approaches … monitoring forms a part of the work, with scrutiny panel looking at figures".

4.3. Information from Ofsted

Children's homes, including secure children's homes, must report certain serious incidents to Ofsted including some of those requiring police involvement.[15] The office asked Ofsted how often, by local authority, these reports, excluding reports of police attending incidents for missing episodes or 'safe and well' checks, had been made in 2024-25.

The data Ofsted provided covers all 153 local authorities in England, of which 137 had at least one report from a children's home. The total incidents reported was 2,281.[v] It is particularly notable therefore that thousands of police call outs to children's homes are not meeting the threshold for notifying Ofsted – indeed this data suggests Ofsted are only aware of a small proportion of police call outs.

[v] These may represent concentrated activity concerning a small number of children or of children's homes, or be widely spread.

In addition, Ofsted provided data on incidents where police attended other homes of children in care, including foster care settings, and supported accommodation for 16- and 17-year-olds. These data were more sparse, which is not surprising given the reporting requirement covers children's homes only. However, Ofsted heard of police officers attending several hundred incidents in these settings, in around half of local authorities.

5. The way forward

The Commissioner wants to see more children given the care, love, and purposeful engagement that will prevent them from becoming involved with criminality. For all children who do offend, they should be met with a safeguarding response that treats them as a child first and foremost, rather than a 'criminal'. And this is most vital for children in care. These recommendations consider both the children who have never offended before coming into care, and what can be done to ensure that care doesn't contribute to their behaviour being classed as criminal. But they also consider how the care system itself can better protect and divert children already displaying criminal behaviour from further criminalisation.

5.1. An enhanced joint protocol to prevent children being criminalised

In 2018, the national protocol on reducing the unnecessary criminalisation of looked-after children and care leavers was published. It encourages professionals to consider whether a child's behaviour would lead to arrest if they lived with their family.[16] However, the protocol lacks statutory power and is inconsistently applied. When the office asked forces what procedures they had in place to monitor their response to incidents involving children in care, they generally only cited their procedures for children in general.

A 2020 analysis found that only 49 out of 157 Youth Offending Teams in England and Wales reported having a local protocol in place, protocols also varied in quality and had shortcomings, including not applying to private children's homes, even though 80% of children's homes in England are private, and lack mention of other intersecting risk factors for criminal justice involvement, such as gender and ethnicity.[17]

Recommendation: The Ministry of Justice, Department for Education and the Home Office must review the guidance on reducing criminalisation of children in care and care leavers, and make it statutory.

The protocol notes that national monitoring of its effectiveness will be measured by areas informing the DfE on their progress of implementing local protocols to reduce criminalisation.

Recommendation: The DfE should publish a details of which areas have developed a local protocol.

The office requested data from all 43 police forces in England and Wales asking how many times in 2024-25 officers had attended calls to incidents in children's homes, households with children living in foster care, and supported accommodation for 16- and 17-year-olds, excluding calls for missing episodes or 'safe and well' checks.

Mostly, forces were unable to provide this information, with no force able to provide the number of times officers attended all three types of home.

Recommendation: Every police force must work with their local authority to jointly implement the area's local protocol to reduce the criminalisation of children in care. Together, the police force and local authority must monitor and track data on police call outs to care settings.

Recommendation:. The protocol must set out clear guidance for when police should be called.

Recommendation: During Ofsted's Inspections of Local Authority Children's Services (ILACS) and individual care settings through the Social Care Common Inspection Framework there must be a stronger emphasis on assessing the response to the over-criminalisation of children in care, including asking for data on police call outs to looked after children, and data on the types and locations of offences committed by children in care, as well as implementation of the protocol.

Recommendation: Information from Ofsted's enhanced inspections should then feed into a central data repository, monitored by the Department for Education, on the implementation of the protocol.

5.2. Diversion

Strengthening protective and diversionary approaches within the youth justice system must be a priority. Children who are in contact with the care system are often more vulnerable to criminalisation, not because they are more likely to offend, but because they lack protective factors, such as consistent family support. Given the already heightened vulnerability of children who interact with the care system, these children are at an increased risk of criminal exploitation.

Last year in the office's data request to all local authorities in England about the use of illegal, unregistered children's homes for children, a concerning 9% of children housed in these settings had been referred to the National Referral Mechanism.[18]

The office strongly welcomes the new offence of child criminal exploitation. The criminal exploitation of children is a complex type of child abuse, with its true scale undercounted.

Yet much more is needed to prevent children from being exploited in the first place.

Recommendation: The forthcoming national Youth Strategy should establish a strong foundation of youth work provision nationwide, with targeted support to identify and divert the most vulnerable children who interact with the care system away from violence and criminality.

It has been identified that some barriers within diversion schemes can disproportionately impact children in contact with the care system.[19] The first of these barriers is the requirement for children to formally admit guilt to access some schemes. This can deter children with a low level of trust in institutions in general, in particular the police. The second is the limited number of times a child can be diverted, which should not apply to children looked after as these children are already at a disproportionate risk of interacting with the criminal justice system.

Recommendation: Remove barriers to children in care accessing diversion routes for children who have contact with the care system.

Recommendation: A comprehensive reform of the National Referral Mechanism (NRM) system and the introduction of an automatic referral pathway for victims of child criminal exploitation, cuckooing and internal concealment. Child victims must receive timely and effective access to appropriate supports

Outcome 22 enables the police to divert children who have committed offences to positive support that could protect them against future offending. Importantly, it does not require an admission of guilt.

Yet despite its potential, Outcome 22 is not currently recognised as a positive outcome in the police reporting framework. This lack of recognition can discourage its use, even when it would be the most appropriate and protective response.

Recommendation: Reframe Outcome 22 as a positive outcome to send a clear signal that diversion is a constructive, child-centred response that supports safeguarding and reduces unnecessary criminalisation.

5.3. Child friendly prosecution process

While the office welcomes the uplift in legal aid for lawyers representing children, recognising the complexity of these cases, it is essential that this uplift is matched with mandatory, specialist training to ensure lawyers are equipped to safeguard and advocate effectively for vulnerable children. The office is calling on the Ministry of Justice and relevant bodies to work with organisations like the Youth Justice Legal Centre to ensure training is embedded and accessible.

The office welcomes the updated Youth Court Bench Book as an important step towards improving outcomes for children in the justice system. However, this must be accompanied by mandatory specialist training for magistrates and legal professionals, consistent implementation across jurisdictions, and wider systemic reform to ensure its guidance translates into meaningful change.

Recommendation: The office recommends that the uplift in legal aid for lawyers representing children be matched with mandatory, specialist training.

The office worked with the Crown Prosecution Service to develop the Children Looked After and Children in Need (CLAIN) form. This form was designed to collate information provided by police in conjunction with other relevant agencies involved in the child suspects life, in one place, to assist prosecutors to make decisions about cases that involve children looked after, children in need and care leavers under 18.

While the office welcomes the implementation of this form, it is unclear how data recorded in each case is used to assess the prosecution of children in care.

Recommendation: The CPS should conduct a review of how the CLAIN form is being used by prosecutors across the country to inform decision making around vulnerable children who have interacted with the care system.

5.4. Sentencing

The office notes that while the government has undertaken a review of adult sentencing, no equivalent review has been carried out for children. This is a significant gap.

Recommendation: An independent sentencing review of the youth justice system must be commissioned. The youth sentencing framework must be amended to prohibit sentences with custodial periods that are less than 12 months. Instead, multi-agency community-based interventions should be used to address the underlying causes of offending for children. Alongside this, strong sentencing guidelines and safeguards must be established to prevent up-tariffing.

5.5. Stable and high-quality care for children

Every child deserves love, stability, and a home that feels like family. Yet too often this doesn't happen. There is a shortage of foster carers, some children's homes are not good enough, and too many are operated for profit rather than for the benefit of children. Children taken into care can be placed in settings where they are not legally entitled to actually receive care, only 'support'.

These gaps in provision are unacceptable and must be addressed. There must be a national effort to recruit more foster carers, increased investment in children's homes, and a clear commitment to end profit making in the care of vulnerable children.

Recommendation: An ambitious and fully funded plan for foster care recruitment, including central government funding for innovative approaches, specialist foster care, and adaptations for family homes to accommodate children.

Recommendation: Regional Care Cooperatives should be jointly funded by the Department of Health and Social Care, the Department for Education and Ministry of Justice to deliver specialist placements for children who may have higher level of needs.

5.6. Improved joint working and data collection

Every part of the system that a child in care interacts with must understand the unique experiences and needs of children who interact with the care system.

The Children's Commissioner for England recommends that trauma-informed training be made mandatory for all professionals working with children in care at risk of criminalisation, including teachers, foster carers, and police officers. This training should be clearly outlined and embedded within the protocol, to ensure that professionals can recognise and respond appropriately to trauma-related behaviours.

Recommendation: Trauma-informed training should be made mandatory for all professionals working with children in care at risk of criminalisation.

A new Children's Plan platform should be delivered alongside the Unique ID. This should create a new platform for establishing children's needs and setting out the support they are entitled to. Any plan for ongoing support offered to a child should be set out through the Children's Plan. This plan should help coordinate all multi-agency support for young people and enable state services to understand the wider context of children's lives.

Crucially the plan should be digitised and, as appropriate, made visible to carers to help them engage with the state and improve people's experience of receiving support. Carers should be able to understand a child's school experience, and services should be able to use a child's plan to understand the wider context of their lives. Alongside the introduction of a Children's Plan platform and Unique ID, a taskforce should be established to oversee the implementation of both of these, working across the relevant bodies to ensure successful multi-agency working.

Recommendation: All children should have a plan, linked to their unique ID, set out on a new digital Children's Plan platform. This should set out children's needs and the support to which they are entitled and the progress they make.

The Children's Commissioner's office is enormously grateful to both the Ministry of Justice and the Department for Education, without both of whom this report and its analysis would not have been

possible, and teams in both organisations were enormously accommodating and patient in making the MoJ-DfE linked dataset available to the office. However, in the course of the office's work, it became apparent that the linked dataset still has necessary work outstanding before it can fulfil its potential, and too often were important variables and offences documented incorrectly or absent entirely from the data. These experiences echo difficulties which the office has heard from other researchers in their experiences with the data. It is apparent that the MoJ-DfE linked dataset is a tremendously powerful data source as a tool to highlight injustices in our society, but more must be done.

Recommendation: The data owners take the necessary steps to ensure the linked data and its documentation is kept to the highest quality.

Methodology

The Children's Commissioner's office set out to examine the criminalisation of vulnerable children in care. The aim was to understand why children in care interact with the criminal justice system, what offences they commit, and then what their journey is like through the system compared to non-care experienced peers.

To do this the office analysed data from the Department for Education's (DfE) and Ministry of Justice's (MoJ) linked dataset, as well as information gathered by the office from Ofsted and police forces in England and Wales on callouts to children's homes, foster care and supported accommodation for 16- and 17-year-olds. This report also draws on case studies from the Children's Commissioner's Help at Hand service.

The cohort in scope

This study follows the cohort of children born in England between calendar years 2000 and 2002, and who appeared in Department for Education administrative data between academic years 2009/10 and 2011/12. The study used the Department for Education's Spring School Census and Alternative Provision (AP) Census for 2001/02 to 2021/22, and linked Ministry of Justice-Department of Education data for 2000 to 2021.

The cohort was defined using snapshot educational census data ten years after the birth year of each child (approximately when the children would have reached the age of criminal responsibility, between the academic years 2009/10 to 2011/12). Educational census data was taken from the Department for Education's Spring School Census and AP Census. No data from the Pupil Referral Unit (PRU) Census data was used, the coverage of which was children in state-funded AP up to 2012/13.[20] This is an important limitation, as pupils exclusively educated in state-funded AP up to that point will be missing from the cohort.

Demographic data on the ethnicity, gender, birth month and birth year of each child was taken as a snapshot from their earliest record across the Spring School and AP Censuses, preferring the Spring School Census where a child was recorded in both. Longitudinal census data was then constructed

from all years of data available in the dataset, from 2001/02 to 2021/22, to determine for each child the greatest level of special educational needs (SEN) provision they had ever been in receipt of. Historic SEN provisions were mapped to their modern equivalents, so for example School Action and School Action Plus were mapped to SEN Support, and Statement of SEN was mapped to Education, Health and Care Plan.

The final cohort includes 1,575,991 children. This compares to the 1,702,279 live births reported in England between 2000 and 2002 by the Office for National Statistics,[21] indicating the data coverage is approximately 93%. The office would not expect full coverage, for example due to children in schools outside the scope of the Department for Education's Spring School and AP Censuses (e.g. children placed in independent schools with fees not paid for by the state),[22,23] and the movement out of England or death of some children between calendar years 2000 to 2002 and academic years 2009/10 to 2011/12. As an additional uncertainty, some of the children in the study's cohort would have been born elsewhere than England between 2000 and 2002.

Establishing care involvement

The office examined the cohort defined above, and used the Department for Education's Children Looked After Census to explore children's care experience and criminal justice involvement. The analysis includes all episodes spent as a child looked after in care, with the exception of episodes of respite, where the child was accommodated in care in a series of short-term breaks.

Establishing criminal justice involvement

The office acquired access to the linked Ministry of Justice-Department for Education dataset, which allowed the cohort identified in the Department for Education data to be joined to Ministry of Justice data.

The contacts children had with the criminal justice system were taken from two datasets within the Ministry of Justice data:

- The Police National Computer (PNC) contains records about offending behaviour and criminal justice outcomes for people over the age of criminal responsibility, which is 10 in England.
- The Home Office Court Appearance Statistics (HOCAS) contains information about appearances at magistrates' courts, including at youth courts. While some courts data is already present in the PNC, HOCAS contains additional information, such as the pleas made by children.

The Ministry of Justice data in the MoJ-DfE linked dataset covers only individuals ever found guilty of at least one offence. For those individuals, it contains all offences they ever committed for which they were found guilty; and unreliable coverage of offences for which they were found innocent. Given this unreliability, all offences which led to an innocent verdict were filtered out of the analysis. As such, when this report uses the term 'first contact with the criminal justice system', it is referring to the first guilty offence which a child ever committed, rather than their first contact with, for example, the police. This is a sizable and unfortunate limitation of the analysis, but necessary given the unreliability of the data.

A child's age at the time of their contact(s) with the criminal justice system was calculated to ensure that they were children at that time, and that they were of the age of criminal responsibility (10 years). Due to data limitations, only the month and year of children's date of birth was available, so the ages calculated were estimates. If, within these uncertainties, it was possible that a child had turned 18 on or before a contact with the criminal justice system, then they were assumed to have been an adult at that time and so that contact was excluded from the analysis.

The data in the MoJ-DfE linked dataset pulled from multiple large-scale administrative systems, into which data is inputted by humans. Although MoJ and DfE both make efforts to keep this data to the highest quality, they will still be subject to human error.

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