

## **THE GOVERNMENT RESPONSE TO THE INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE'S INVESTIGATION REPORT, *SEXUAL ABUSE OF CHILDREN IN CUSTODIAL INSTITUTIONS: 2009-2017.***

### **Introduction**

1. The findings in this report are shocking. Protecting the safety and welfare of children in the care of the state is our top priority. No child should be subject to the abuse identified in the report. We are taking comprehensive measures to eradicate all forms of abuse and we act promptly and firmly when abuse is suspected, reported or proven.
2. Separately to this report, we have conducted a review into safeguarding in the youth secure estate, we have commissioned an independent review of pain-inducing restraint techniques and we are implementing a significant programme of workforce reform. But, we recognise further action is needed and the Inquiry's recommendations are, therefore, very helpful in helping us to shape our future work.
3. We have set out below the actions the Department for Education (DfE), the Youth Custody Service (YCS) and Ministry of Justice (MoJ) are taking to address the Inquiry's concerns and ensure the welfare of the children in our care remains our utmost priority.

### **Recommendation 1**

***The Chair and Panel recommend that the Youth Custody Service commissions research into why the child remand population is as high as it is. If the reason is a lack of appropriate community provision (nationally or in certain areas), or otherwise unrelated to a genuine need for those children to be remanded in custody, the Chair and Panel recommend that the Youth Custody Service, with appropriate partner agencies, puts an action plan in place to address this.***

4. We have had significant success in reducing remands to youth custody. Between 2010/11 and 2017/18, the use of remand fell by almost 60%. However, more recently, the remand population has started to increase and we agree there is a need to understand the causes of that and how we can better ensure remand to custody is used only as a last resort, when no other option is available.
5. MoJ commits to undertaking further work to consider the use of remand in greater detail. Within the next year, we aim to identify options to reduce numbers where appropriate, while ensuring victims and the public are protected.

### **Recommendation 2**

***The Chair and Panel recommend that the Department for Education and the Youth Custody Service conduct a full review of the practice of placing children for justice and welfare reasons together in SCHs to establish whether it increases the risk of sexual abuse to children. If so, appropriate action should be taken, including consideration of alternative models. The review should be completed within three months, and an action plan should be published within six months.***

6. We accept this recommendation. DfE is working closely with the Ministry of Justice and the Youth Custody Service to carry out a review of placement practice in secure children's homes, particularly considering the practice of placing children on welfare and justice grounds in the same homes.

7. There already are multiple layers of safeguards in place to protect children placed in secure homes. Under the Children's Homes (England) Regulations 2015, managers of homes must consider referrals for placements in the home, taking account of whether they can meet the needs of the child and others in the home. Presently, "matching issues" is one of the most common reasons for SCHs rejecting referrals. For example, SCHs would not seek to place a child who had a history of vulnerability to sexual exploitation alongside a child who had shown sexually harmful behaviours.
8. SCHs must consider the vulnerabilities and the risks concerning the behaviours of individual children in the home and have strategies for managing this in place. Ofsted reviews SCHs' policies and procedures concerning these issues on inspection and can take enforcement action where poor practice is uncovered.
9. The practice review will provide a vehicle to look further into current placement practice. We are currently pooling existing data sets across the Secure Welfare Coordination Unit and YCS and have commissioned Ofsted to review notifications data. We also plan to complement this with qualitative data collected from stakeholders. This will inform our assessment of the need for any further action.
10. DfE wrote to the Inquiry on 15 May 2019 making it clear that, unfortunately, it would not be able to meet the Inquiry's deadline of three months (28 May) for completion of the review and noted the Inquiry's helpful response of 31 May 2019. The complexity and sensitivity around the questions addressed in the placement review means that in order to ensure our methodology and approach are robust and that findings are valid, we need to work to a timeframe for the response that extends beyond that set by the Inquiry. We have written to the Inquiry again setting this out and explaining that we expect to conclude the review in November 2019, with a view to publishing an action plan in response to the findings by early 2020.

### **Recommendation 3**

***The Chair and Panel recommend that the Youth Custody Service takes steps to ensure that its training provides staff with an appropriate understanding of safeguarding in the context of the secure estate, and that this is regularly reviewed and updated.***

11. We agree such training is required. Indeed, the YCS's own safeguarding review also identified the need to take steps to ensure the training provided to staff is appropriate to their job roles and provides sufficient understanding of safeguarding in the context of the youth secure estate. The YCS will review the mandatory training for all its frontline staff, including at management level, alongside a review of the content and material where necessary.
12. As part of work to further professionalise the secure estate workforce, we have introduced the Youth Justice Foundation Degree. The degree includes key learning on safeguarding within several modules. It is fully accredited by the University of Suffolk and has both academic modules on the causes and contexts of youth offending and effective practice modules based on the eight skills outlined in the Youth Justice Board's "effective practice skills matrix". The academic elements reflect the latest research and understanding of both children's offending and their needs. To date, over 400 frontline staff have enrolled for the degree and we aim to have all frontline officers trained, or in training, by 2023.

#### Recommendation 4

***As the Inquiry set out in its Interim Report, professional registration of the workforce in settings responsible for the care of vulnerable children complements regulation of institutions by a separate, independent regulator.***

***The Government has agreed in principle that professional regulation of staff in children's homes in England could provide an effective additional means of protecting children. It has indicated that it will be conducting an evidence-gathering exercise to inform further action.***

***The Chair and Panel now recommend that the Ministry of Justice introduces arrangements for the professional registration of staff in roles responsible for the care of children in YOIs and STCs. The Interim Report recommendation already applies to staff working with children in SCHs.***

13. We recognise that a new register of staff in the youth secure estate could provide an additional means of protecting children. In line with the government's response to the Inquiry's earlier recommendation concerning staff in children's homes, MoJ will gather evidence through consultation with the sector and analysis of successful models internationally and in devolved administrations to determine the potential benefits and impacts on other areas such as recruitment, retention and staff qualification before deciding on further action. MoJ will work closely with DfE to gather this evidence and explore the options for establishing a new register.
14. It is, however, important to emphasise that staff in the youth secure estate are already subject to increased levels of vetting compared to those in the adult estate. This takes the form of an enhanced Disclosure and Barring Service check prior to recruitment and then every five years subsequently.
15. Any circumstances in which a member of staff does not meet the requirements of this re-vetting are investigated fully and appropriate action taken, including, in some circumstances, dismissal.
16. We recognise the importance of demonstrating the right values and having a specialist skillset when working with vulnerable and complex children in a secure environment. That is why we are implementing an ambitious workforce reform programme that provides significantly more advanced training for frontline staff and applies new child-centric recruitment and assessment processes. These measures will further ensure staff are appropriately screened and trained to work with vulnerable children and are better equipped to address safeguarding concerns.

#### Recommendation 5

***The Chair and Panel consider that the use of pain compliance techniques should be seen as a form of child abuse, and that it is likely to contribute to a culture of violence, which may increase the risk of child sexual abuse.***

***The Chair and Panel recommend that the Ministry of Justice prohibits the use of pain compliance techniques by withdrawing all policy permitting its use, and setting out that this practice is prohibited by way of regulation.***

17. In October 2018, MoJ commissioned Charlie Taylor, Chair of the Youth Justice Board, but acting in an independent capacity, to review of the use of pain-inducing techniques in YOIs, STCs and during escorts. The review has completed its evidence gathering,

which included a meeting with the Inquiry's secretariat. We will, therefore, respond to the Inquiry's recommendation once we have had the opportunity to consider Mr Taylor's report and recommendations. We will publish the report and the government's response in due course.

## **Recommendation 6**

***The Chair and Panel note that Prison Service Instruction (PSI) 08/2012, which sets out the mandatory actions for YOIs and STCs for 'maintaining a safe and secure environment', has expired. The Chair and Panel recommend that the Ministry of Justice revises and publishes this PSI to provide clear guidance on how custodial institutions must respond to allegations of child sexual abuse. This should include a requirement for all allegations to be referred to a child protection professional who is independent of the institution.***

***The Chair and Panel also recommend that all institutions, including those which are privately run, publish their safeguarding local procedures in full as well as regular reports about their use, to aid scrutiny and increase transparency.***

18. We agree the guidance requires updating and work has already begun to revise or replace PSIs with new "policy frameworks", which are designed to be simpler and less restrictive and to further empower governors.
19. PSI 08/2012 ("care and management of young people") had previously been identified as needing updating, with work due to commence during 2019. In advance of this, the YCS has published *Building Bridges*, a policy framework that replaces some aspects of PSI 08/2012 relating to behavioural management of children (including promoting and maintaining good behaviour, managing challenging behaviour and offending behaviour interventions).
20. DfE is revising its statutory guidance on safeguarding in schools, *Keeping Children Safe in Education* and the YCS will work with DfE to produce a second document, *Keeping Children Safe in Custody*. The best practice requirements will remain the same, but the staff references and operational requirements will reflect secure settings. The revision will be supported by a secure sector operations working group. It will be signed-off jointly by the YCS and DfE prior to publication in 2020. The guidance will then be updated annually alongside the guidance for schools.
21. *Keeping Children Safe in Custody* will inform both further training requirements and the contents of training for all staff under recommendation 3. It will also inform the child protection content for the new safeguarding policy framework that will replace PSI 08/2012.

## **Recommendation 7**

***The Chair and Panel recommend that the Ministry of Justice and the Department for Education share policy responsibility for managing and safeguarding children in custodial institutions. This is to ensure that standards applied in relation to children in custody are jointly focussed on discipline and securing child welfare.***

22. We understand and recognise the need for our respective departments to work closely and in a co-ordinated way if we are to achieve the best outcomes for children. We have long worked across departments to consider the needs of all children held in the secure estate and ensure the right provision is in place for these children at the right time and in the right location and will continue to do so. MoJ and DfE have existing

joint working relationships on secure children's homes, safeguarding and in establishing secure schools.

23. In developing plans for secure schools and our approach to commissioning them, MoJ and DfE have worked in partnership and with the Department of Health, NHS England, Her Majesty's Prison and Probation Service and the Youth Justice Board, along with a range of health, education and care providers. This engagement has been essential in ensuring we attract providers who have a child-focused ethos at their core, a proven record of their knowledge and skills to work with children in crisis, exhibit an unshakeable desire to help them turn their lives around and that they foster the type of culture and environment that is necessary to make secure schools a success.
24. Our ambition is to replace all YOIs and STCs with secure schools, moving the estate towards one which consists of SCHs and secure schools only. We have recently announced that Oasis Charitable Trust, which runs 52 academies with 30,000 students, has been selected to operate the first secure school, which will open in late 2020 in Medway.
25. In addition to secure schools, we are working together on DfE-led work to develop central commissioning arrangements for all provision in secure children's homes (both welfare and justice) and are also working to improve and expand the capacity of the SCH estate through DfE's £40 million capital grants programme. Both departments are in dialogue about the future of the secure estate, to ensure that departments' respective reform programmes are developed and delivered with shared aims and objectives, reflecting the fact the cohorts of children in different parts of the secure estate have overlapping needs and characteristics.