



Department  
for Education

# **Secure children's homes: placing welfare and justice children together**

**Research report**

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**Di Hart and Ivana La Valle**



**Social Science in Government**

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Given the time constraints of the study, we did not on this occasion have the opportunity to hear directly from the children with experience of secure care. However, we did get to hear some of their stories from staff and they remain at the heart of the study.

## Executive summary

This study was commissioned by the Department for Education (DfE) in response to the following recommendation by the Independent Inquiry into Child Sexual Abuse (IICSA) in their report ‘Sexual Abuse of Children in Custodial Institutions: 2009–2017’:

DfE and YCS conduct a full review of the practice of placing children for justice and welfare together in secure children’s homes (SCHs) to see whether this increases risk of sexual abuse to children. If so, action should be taken including consideration of alternative models (IICSA, 2019. Recommendation 2: pp.101-102).

The study findings are based on the following sources of evidence:

- unpublished statistical evidence about the profile of the children referred to SCHs, serious incidents in SCHs reported to Ofsted and local data
- in-depth interviews with 21 staff in a range of roles in SCHs that provide both justice and welfare placements, and 11 national stakeholders selected to reflect different aspects of policy and practice

## Secure children’s homes

SCHs are specialist placements authorised to care for children<sup>1</sup> aged between 10 and 17 in a locked environment. They are designed for children with complex needs who could not safely be placed elsewhere. This includes both ‘justice’ children who have been sentenced or remanded by a criminal court and ‘welfare’ children who are placed by local authorities following authorisation by a family court because they are a risk to themselves or others. Of the 13 SCHs operating in England at March 2019, providing a total 206 beds, 6 take only welfare children; 2 only justice children and the other 5 are mixed.

## What do we know about the children?

The study shows that the common factor shared by all children in SCHs is a very high level of vulnerability. Their complex needs include: speech and language problems; physical and learning disability; severe trauma; mental health issues such as anxiety, depression and post-traumatic stress disorder; and behavioural disorders such as ADHD. This is the case whether they enter via a justice or welfare pathway with, for example, 52% of welfare and 46% of justice referrals presenting a risk of self-harm.

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<sup>1</sup> The term ‘children’ is used throughout this report in recognition of the legal status of those under 18.

Not only does the evidence show that the children are the 'same' in terms of their profile, but that they are sometimes literally the same children: 82% of children referred for a welfare placement had past or outstanding criminal convictions and 12% had previously been in a custodial placement. Conversely, many children in a justice placement were involved with the child welfare system, including 40% who had been looked after.

Stakeholders interviewed for the study said that sexually inappropriate and harmful behaviours were common in the backgrounds of children entering SCHs. Further examination of the data is needed, however, to establish whether this results in abusive behaviour within the placement itself and, if so, whether there is any difference between the justice and welfare populations.

## Testing the evidence

The IICSA investigation identified 121 alleged incidents of sexual abuse in SCHs from 2009-2017 where the perpetrator was said to be another child. It is not clear how many of these were substantiated (although IICSA reported that the vast majority of overall allegations did not proceed). There is also no data to indicate whether the alleged perpetrator was placed on justice or welfare grounds. In terms of the type of SCH, 23 incidents were in those taking only welfare placements and 98 in SCHs taking only justice or mixed justice and welfare children. Given the number of beds in the respective homes, this would not suggest that children are significantly safer in welfare-only homes.

Data provided by Ofsted suggested a much lower incidence with only 29 sexual allegations against other children from 2009-2019, 11 of which were substantiated. Again, there was nothing to suggest that the risk was lower in SCHs taking only children on welfare placements. The low risk of sexual abuse by other children was confirmed by all respondents in the qualitative aspect of the study, given that children are never left unsupervised. They also thought it unlikely that incidents would go unreported: SCHs receive a high level of scrutiny and children have multiple avenues to raise concerns.

Other aspects of the IICSA investigation, including a rapid evidence review and primary research with children, suggested that mixing children from the welfare and justice systems could be perceived as not 'right' but did not identify any evidence that it increased the risk of sexual abuse.

## Stakeholder reactions to IICSA's recommendations

National and SCH stakeholders did not agree that the practice of placing welfare and justice children together was a legitimate cause for concern. They questioned why a child placed on criminal justice grounds should be seen as more likely to pose a risk of sexual abuse to other children, or why the welfare children should be seen as the ones primarily

vulnerable to such abuse. They confirmed the statistical evidence that all children in SCHs have troubled backgrounds and complex needs and are essentially the ‘same’ children. In view of this, stakeholders did not think an alternative model was necessary to keep children safe.

## **Can mixed SCHs manage the risks?**

SCH staff described a wide range of strategies to identify and manage risks between children. Approaches included harm prevention, with plans to minimise the opportunities for children to put themselves or others at risk, but also work to tackle the underlying causes of risky behaviour.

The level of risk posed by individual children was not reported to be related to whether they were on a justice or welfare pathway. Respondents thought that there were, however, other issues raised by placing these children together associated with perceptions that it is not ‘fair’ or that welfare children may be criminalised by their association with children from the justice system. The experience of respondents was that these concerns were not substantiated in practice. In fact, the mixture of children reflected the communities from which the children came and could present opportunities to support them to acquire life skills.

## **Conclusions**

We found no evidence to support concerns that placing children from the justice and welfare systems together in mixed SCHs increases the risk of sexual abuse.

For this to be true, firstly, children in the justice and welfare systems would need to have different characteristics, with the implication being that justice children present the greatest risks. In fact, both the quantitative and qualitative evidence showed that they are fundamentally the same children and are all there because they are deemed to be vulnerable. There was considerable overlap between the populations with some children having repeat admissions on different pathways. There was also no evidence to suggest that justice children pose any greater risk of sexual harm than their welfare peers.

Secondly, it would have to be the case that mixed SCHs cannot manage any risks that children pose to each other. Again, the evidence did not substantiate this. Whilst stakeholders acknowledged that sexual abuse can happen anywhere, they thought that children were safer in SCHs than other settings. This was because SCHs must comply with Children Act regulations requiring them to accept children only if they can meet their needs alongside children already placed. SCHs are reported to then have an effective approach to risk management and are subject to rigorous scrutiny.



There was therefore no evidence to suggest that the model of mixed welfare and justice SCHs needs to change. Respondents also argued that, for a combination of reasons, stopping homes from providing mixed justice and welfare beds could be detrimental for children and destabilise the sector. If anything, respondents thought children would benefit from greater integration of the justice and welfare systems – and the inclusion of mental health services.

# 1. Introduction

This study was commissioned by the Department for Education (DfE) in response to a recommendation made by the Independent Inquiry into Child Sexual Abuse (IICSA) in their report on the extent of any institutional failures to protect children from sexual abuse or exploitation in custodial institutions. One of their conclusions was that:

Evidence that children who had engaged in sexually harmful behaviour were placed alongside children who were in SCHs for welfare reasons gave rise to concern (IICSA, 2019. Conclusion 12: p.100).

Consequently, the Inquiry recommended that:

DfE and YCS conduct a full review of the practice of placing children for justice and welfare together in SCHs to see whether this increases risk of sexual abuse to children. If so, action should be taken including consideration of alternative models (IICSA, 2019. Recommendation 2: pp.101-102)<sup>2</sup>.

In this chapter we first provide an overview of the SCH sector and then outline the questions addressed by the study and how the research was carried out.

## 1.1 The secure children's home sector

SCHs are specialist placements authorised to care for children aged between 10 and 17 in a locked environment. There are currently 14 SCHs in England providing a total of 206 placements, although one of the homes is currently out of commission. Referrals into a SCH follow two different pathways:

- 'justice' placements where a child is remanded or sentenced to detention by a criminal court through youth justice legislation
- 'welfare' placements where a family court authorises a child to be detained under s25 of the Children Act 1989 either because, if the child was in an open placement s/he would be likely to abscond and would then be at risk of significant harm, or the child would be likely to injure her/himself or others

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<sup>2</sup> The government response to the IICSA report can be found here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819657/iicsa-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819657/iicsa-response.pdf)

Some SCHs take children from only one of these categories whereas others are mixed. The current distribution of available placements is illustrated in table 1.

**Table 1: SCH places available at 31 March 2019 – England<sup>3</sup>**

	<b>Welfare</b>	<b>Justice</b>	<b>Total</b>
<b>All SCHs</b>	105	101	206
<b>Welfare</b>	<b>52</b>	<b>0</b>	<b>52</b>
Atkinson	5	0	5
Beechfield*	0	0	0
Clare Lodge	16	0	16
Kyloe House	12	0	12
Lansdowne	6	0	6
Marydale Lodge (previously St Catherine's)	5	0	5
Swanwick Lodge	8	0	8
<b>Mixed</b>	<b>53</b>	<b>50</b>	<b>103</b>
Adel Beck	10	14	24
Aldine House	4	5	9
Aycliffe	30	8	38
Clayfields House	8	12	20
Lincolnshire	1	11	12
<b>Justice</b>	<b>0</b>	<b>51</b>	<b>51</b>
Barton Moss	0	27	27
Vinney Green	0	24	24

Source: DfE SA1 Survey

\* Beechfield is licensed for 7 beds but currently closed and not expected to re-open

SCHs are provided by local authorities or, in one instance, the voluntary sector. The number of SCH places in England has declined significantly since 2004 when there was a total of 450 approved beds across 28 homes (DfES, 2005). This is due partly to a reduction in the numbers of children being remanded or sentenced to custody through

<sup>3</sup> This data was correct at the time of writing the report but more recent statistical information is now available: [Children accommodated in secure children's homes, Reporting Year 2020 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/government/statistics/children-accommodated-in-secure-childrens-homes-reporting-year-2020)

the youth justice system. Furthermore, running a SCH is seen as a 'high-risk/ high-cost' enterprise that most local authorities are reluctant to take on. Studies have suggested that the 'market' does not work for this small but vulnerable population (Deloitte, 2008; Mooney et al, 2012) and there are significant problems in matching supply to demand. This is most evident in the case of applications for 'welfare' beds, where there are multiple referrals for every vacancy (Secure Welfare Co-ordination Unit, 2019) and children are increasingly being placed in secure provision in Scotland or a range of other settings, some of which may be unregulated or unsuitable<sup>4</sup>.

## 1.2 Formulating the research questions

We considered the factors that would result in children being at increased risk of sexual abuse in mixed justice and welfare placements and concluded that the following would need to be true:

- children placed on justice or welfare grounds are fundamentally different cohorts, with the justice children presenting a greater risk of sexual harm to their peers
- mixed justice and welfare SCHs cannot manage the risks posed by these distinct groups of children.

We then considered the evidence that would be needed to explore these factors, including:

- quantitative evidence about: the incidence of sexual harm between peers in SCHs; the characteristics of both welfare and justice children placed in SCHs
- qualitative evidence from local and national stakeholders with expertise in the secure sector
- illustrative case examples of the challenges presented by caring for children within mixed SCHs.

Specific research questions were:

- Is there evidence to substantiate IICSA's concerns? What are the views of national and local stakeholders on whether placing children in justice and welfare placements together in mixed SCHs increases the risk of sexual abuse? These findings are presented in **chapter 2**.
- What factors are taken into account when deciding on secure placements for children within the justice and welfare systems? To what extent, and how, is risk considered within these respective processes? These questions are explored in **chapter 3**.

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<sup>4</sup> See Ofsted blog: <https://socialcareinspection.blog.gov.uk/2019/07/08/unregistered-and-unregulated-provision-whats-the-difference/>

- Who are the children placed in SCHs and what kinds of risk do they present to their peers? Is there evidence that children on justice placements are those who primarily pose a risk to others and the risk of sexually harmful behaviour in particular? This evidence is presented in **chapter 4**.
- How do homes manage the risks children may present to each other, particularly the risk of sexually harmful behaviour? Does the practice of caring for welfare and justice children together have an impact on SCHs' ability to keep children safe and meet their needs? This topic is discussed in **chapter 5**.
- Are there any other lessons from the research that suggest a need for a change in placement practice in SCHs? This is discussed in **chapter 6**.

### 1.3 How the research was carried out

The research findings are based on three sources of evidence collected in September and October 2019.

Unpublished national statistical evidence was provided for this study by the Secure Welfare Co-ordination Unit (SWCU), the Youth Custody Service (YCS), Ofsted and DfE. This was examined in conjunction with data described within the IICSA report (2019).

We carried out in-depth interviews with 21 staff in 4 of the 5 SCHs in England that provide both welfare and justice placements. The homes were selected to cover different geographical areas, different proportions of justice and welfare beds and homes that currently or recently had children with a sexual offence. Within each home we interviewed senior managers and frontline staff in a range of roles (see table 3). The interviews explored views and experiences about the research questions outlined above. In the course of the interviews we also collected supporting evidence in the form of anonymised examples and statistics.

We carried out in-depth interviews with 11 respondents from 7 national organisations (see table 3), all of whom had experience of working with the sector and most had worked within a SCH at some point in their career. These respondents were selected to reflect different aspects of policy and practice (e.g. monitoring and inspection, placement co-ordination, health provision in SCHs). Again, the research questions were explored with respondents based on their experience of national policy as well as practice.

Interviews were recorded and transcribed verbatim to ensure they provided an accurate record. They were then analysed using Framework (Ritchie and Spencer, 1994), a rigorous and systematic method that allows in-depth thematic and within case analysis, as well as comparison between different groups of respondents.

We have not included quote attributions because the findings are based on a small sample drawn from a small sector, and attributions could make it possible to identify the

respondents. However, when relevant we have indicated if, for example, the quotes are from national stakeholders and/or SCH respondents. All the case examples of children presented in the boxes have been anonymised, their names have been changed and we have removed information that would make it possible to identify the child or the home.

**Table 2: Research sample\***

<b>21 staff in 4 SCHs</b>	<b>11 respondents from 7 national organisations</b>
Registered managers (3)	Secure Welfare Co-ordination Unit (3)
Deputy and assistant managers (5)	Youth Custody Service (3)
Residential care workers (5)	Ofsted (1)
Case managers (2)	Secure Accommodation Network (1)
Programme officers (2)	Association of Directors of Children Services (1)
Team leader (1)	NHS England (1)
Senior practitioner (1)	Adolescent Forensic Psychiatry Special Interest Group (1)
Teacher (1)	
Psychologist (1)	

\*Number of respondents in brackets

## 1.4 Study limitations

Due to the tight timetable dictated by the deadline of the IICSA recommendation, the study's design has two main limitations.

- Firstly, it was not possible to interview children in SCHs as the consent and ethical protocols for their inclusion would have required substantially more time than was available. Moreover, IICSA had already conducted its own primary research with children in custodial settings as part of the Inquiry and relevant findings are summarised in chapter 2.
- Secondly, there was no time to cover a larger sample of homes and therefore to include those that provide only justice or welfare beds. We understand that decisions to provide only one type of placement are largely shaped by operational and financial factors, rather than any concerns about children's safety. We therefore decided that, given the focus of the study, mixed homes would provide more relevant data.

## 2. Testing the evidence

In this chapter, we examine the available statistical data to see if there is any evidence to substantiate IICSA's concerns that the practice of placing justice and welfare children together within SCHs increases the risk of sexual abuse. We then present the reactions of national and SCH respondents to the questions raised by the IICSA report, including their views on whether sexual abuse within SCHs is under-reported and the practice of caring for justice and welfare children alongside each other.

### 2.1 Prevalence of child sexual abuse in SCHs

#### 2.1.1 IICSA data

The Inquiry analysed new evidence on the prevalence of child sexual abuse in secure settings within the justice system, including SCHs<sup>5</sup>, whilst noting a number of limitations of the data obtained for the analysis. The Inquiry analysis found that between 1 January 2009 and 31 December 2017, there were 990 alleged incidents of child sexual abuse in custodial institutions<sup>6</sup>. While only about 1 in 10 remanded or sentenced children are placed in a SCH, they account for a quarter of these allegations (242) (see Table 2). The IICSA report acknowledged that this was probably because these children felt safer and were therefore more able to tell someone about their concerns, not because the incidence was higher:

The cultural barriers to disclosure were less apparent in SCHs. Such an environment creates a better climate in which a child potentially will feel safer and more able to disclose sexual abuse. In SCHs the staff/child ratio is higher than the ratio in YOIs and STCs, with more opportunities to build positive relationships with children (IICSA, 2019 p.100).

Although the remit of the Inquiry was to investigate sexual abuse within custodial institutions, their report includes data on children in SCHs taking only welfare placements. In the following table taken from the IICSA report, 'SCH\*' refers to justice-

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<sup>5</sup> The evidence for the analysis was from: the HMIP Children in Custody series reports; HMIP and Ofsted surveys in STCs and YOIs and other information provided by HMIP; information about disclosures of child sexual abuse obtained using powers under Rule 9 of the Inquiry Rules 2006 from custodial institutions, local authorities, police forces and the bodies who inspect or visit custodial institutions. The requests asked for, in respect of any allegation or report of child sexual abuse occurring at a custodial institution: (a) a brief description of the alleged incident; (b) the number of victims; (c) the date(s) of the incident(s); (d) the type of investigation undertaken; (e) the outcome of the investigation; and (f) whether the alleged perpetrator was a member of staff, detainee or someone else. The requests also asked, in respect of incidents in SCHs, whether the victim had a justice or a welfare placement at the institution.

<sup>6</sup> The total number was 1070 but some were excluded as possible duplicates

only and mixed placements, whereas ‘SCH W’ refers to SCHs holding only children on welfare placements.

**Table 3: IICSA analysis of alleged sexual abuse in SCHs 2009-2017**

Type of abuse (main event)	SCH*	SCH W	Total
Rape	4	3	7
Attempted rape	0	0	0
Sexual assault	91	27	118
Attempted sexual assault	2	1	3
Exposure	9	4	13
Sexual acts between detainees possibly consensual	20	3	23
Sexual/inappropriate relationship between staff and detainee	3	4	7
Threat of sexual abuse	2	0	2
Other‡	44	10	54
Insufficient detail	14	1	15
<b>Total</b>	<b>189</b>	<b>53</b>	<b>242</b>

Source: IICSA, 2019 – see also footnote 3

‡ This includes, for example, sexual comments, voyeurism, grooming behaviour and sexual gestures.

The Inquiry report says that for reasons that were not always clear, the vast majority of allegations were not found to be substantiated, a finding that relates to incidents across all secure establishments. Nevertheless, the Inquiry concluded that child sexual abuse is not uncommon across the secure estate, therefore including in SCHs. As the Inquiry identified a significant number of allegations of child sexual abuse which had not come to light via existing monitoring mechanisms, it raised concerns about the under-reporting of child sexual abuse in custodial establishments.

Other children in the SCH were identified as the perpetrators in 50% (N 121) of the alleged incidents although the report does not say whether the alleged perpetrator was placed on justice or welfare grounds, what type of abuse was involved and how many of these allegations were substantiated. There is, however, data differentiating allegations according to the type of SCH: whether it took only welfare children or those on justice placements. Unfortunately, there is no further breakdown to indicate the proportion of the latter that were justice-only as opposed to mixed justice and welfare SCHs. Of the total 121 allegations of sexual abuse by another child, 98 were from SCHs taking justice children and 23 were from welfare-only SCHs (IICSA, 2019 p.34). The profile of SCHs has changed between 2009-2017 but if we take the current distribution, about 25% of



beds are in welfare-only SCHs and 75% in justice-only or mixed homes (see Table 1). This would suggest that allegations are fairly evenly distributed across the different types of home and that children are not significantly safer in welfare-only homes.

### 2.1.2 Ofsted data

Children’s homes are required to inform Ofsted of any serious incidents, including suspected or actual sexual exploitation; allegations of abuse against the home or a person working there and any child protection investigations that have been initiated or have concluded<sup>7</sup>. Data from Ofsted provided for this study on serious incidents of sexual harm reported to them between 2009-2019 indicates a much lower incidence of sexual allegations against other children than that suggested by the IICSA investigation.

**Table 4: Ofsted notifications of serious incidents of a sexual nature with a child perpetrator 2009 – 2019**

<b>Alleged incident</b>	<b>Welfare SCH</b>	<b>Justice SCH</b>	<b>Mixed SCH</b>	<b>All SCHs</b>
Inappropriate exposure	3	0	1	4
Inappropriate sexual behaviour/ language	1	1	1	3
Inappropriate touching	4	0	12	16
Sexual assault	1	0	2	3
Other	2	0	1	3
<b>Total</b>	<b>11</b>	<b>1</b>	<b>17</b>	<b>29</b>

Overall, 18 of the 29 allegations or concerns were withdrawn, not substantiated or resulted in no further action once reviewed by the local authority or police: 11 in mixed homes and 7 in welfare-only homes. It is very difficult to draw any conclusions from such a small number of cases but, as with the IICSA data, there is nothing to suggest that children are safer from sexual harm in welfare-only placements.

The reasons for the discrepancy between the IICSA and Ofsted figures are difficult to explain. IICSA suggested that, even within their data, there could be under-reporting. These issues were explored in the interviews with national stakeholders and SCH staff.

<sup>7</sup> <https://www.gov.uk/government/publications/notify-ofsted-of-an-incident-form-for-childrens-social-care-providers/childrens-home-providers-guidance-for-notifying-us-of-a-serious-incident>

### 2.1.3 Stakeholder evidence

We asked respondents their views on IICSA's concerns about the prevalence of sexual abuse in SCHs and the likelihood that it is reported and investigated.

Some of the national stakeholders we interviewed thought that SCHs have some of the characteristics of settings where sexual abuse is more likely to occur, as they are closed and somewhat isolated institutions characterised by power differentials. However, given the high level of monitoring and scrutiny, there was a consensus across all stakeholders that the risk of child abuse in SCHs is low, and lower than other settings where children may otherwise be, such as open residential homes and other secure establishments. When it comes to sexual abuse from other children, respondents wondered how that could happen in practice given that children are 'watched like hawks all the time'. As we will see in subsequent chapters, children are very rarely left alone with other children, not even in corridors as they move around the building; staff to child ratios are high; children are kept apart from each other if there are any concerns; there are CCTV cameras everywhere except in bedrooms and bathrooms (where children cannot be with other children). The views of those working in and running homes and those involved in national policy were very similar, as illustrated by the quotes below from national stakeholders.

The risks of sexually harmful behaviour are there, they're there in any provision, but we think that in secure units, because of the high ratios of staff, and the fact that it's an enclosed environment where doors are locked and movements are controlled, the risks are even lower than they are in children's homes.

That risk exists in a secondary school, it exists in a children's home, it exists in a park. It's the reality but I wouldn't focus it just on a secure setting. You're in a secure setting where you've got a much higher level of direct supervision ...and children are physically unable to access other children unsupervised if it's operating as it should.

On the issue of under-reporting, respondents said one cannot be certain that sexual abuse is always reported because 'you don't know what you don't know'. However, there was a consensus that the numerous ways in which children can report safeguarding concerns and the level of scrutiny of practice in SCHs minimise the chances that incidents and concerns are not picked up.

Respondents explained that children have many opportunities to report safeguarding concerns. There are formal mechanisms for children to report any issues (e.g. Raise Concern forms). Children also form relationships with staff in different roles, such as key workers, intervention workers, teachers and health practitioners. Respondents believed

that this should ensure that there is always someone they trust and can speak to if anything is bothering them. SCH staff mentioned several examples of children who had raised concerns about how other children made them feel (e.g. uncomfortable, unsafe) and what actions were taken to deal with that. It was also reported that children frequently speak with external visitors such as their social worker, YOT worker, advocates, inspectors and family members. Children have access to phone lines to Voice, the Office of the Children's Commissioner and Childline in their bedroom. As this respondent explained:

You'll see for yourself when you go around there, it's very open. The kids get plenty of opportunity to talk to staff out of earshot of other young people. ... so I'd say that they are fairly good at communicating when they feel unsafe or they feel unsure about something, or they're not happy about something.

Respondents also pointed out that SCHs are subject to a high level of scrutiny. There are monthly reports by independent visitors and full annual Ofsted inspections, as well as interim Ofsted visits. Serious incidents, including all incidents of a sexual nature, must be reported to Ofsted who will check to make sure the appropriate action has been taken and intervene directly if it has not. Ofsted does not just respond to reports, however. As part of their inspection methodology, they scrutinise records and incident logs as well as speaking directly to children (both those who are on justice and welfare placements). It is expected that incidents and allegations, including those against other children, are reported to the local authority where the SCH is located, as well as to the child's social worker. For justice children, YCS is also notified. Ofsted proactively take up any instances where this had not happened. As this respondent from a SCH explained:

We always report out of the building, we have a really close working relationship with [LA] Safeguarding Board. Wherever it meets the threshold, we'll involve the police, the child's own local authorities are always informed, parents if they're part of their contact list.

In fact, some respondents wondered if they were over-reporting trivial incidents in the interest of transparency, such as an incident where a girl complained that another girl had touched her on the leg. However, as a SCH staff member said:

Even if it's cusp-y, I'd rather refer and somebody else independently have a look at it.

## 2.2 Risks arising from mixing welfare and justice placements

### 2.2.1 IICSA evidence

Given that the IICSA analysis on the incidence of sexual abuse in SCHs was inconclusive and did not demonstrate a greater risk from justice children, we considered the other evidence collected by IICSA. A rapid evidence assessment (REA) commissioned by the Inquiry (Mendez Sayer et al, 2018) looked at the issue of mixing welfare and criminal justice placements. Some of the evidence on potential risks that children who have committed a sexual offence may pose to other children in custody, especially children who have been abused, is from the USA (e.g. Delisi et al, 2008; Heaton et al 2012, quoted in Mendez Sayer et al, 2018). This evidence did not specifically consider the issue of mixing justice and welfare children and could not indicate if these risks would apply to SCHs. The REA reported a consensus in the literature that:

... SCHs are the most child focused type of secure establishment with the care provided being more individualised and personal and homes being described as having a more informal, family atmosphere (Mendez Sayer, 2018: p.13).

Evidence from the UK presented in the REA shows a mixed picture based mostly on evidence published over a decade ago. Research highlights the challenges and risks of placing welfare children alongside their justice peers (Brogi and Bagley, 1998; Goldson, 2003 and 2007; O'Neil, 2001; Rose, 2014 quoted in Mendez Sayer et al, 2018). However, the research evidence also shows that children from both groups are very similar and the 'welfare' and 'justice' labels do not accurately reflect the level of risk a child may pose to his or her peers (Brogi and Bagley, 1998; Ellis, 2016; Goldson, 2003 and 2007; O'Neil, 2001; Rose, 2014 quoted in Mendez Sayer et al, 2018). There was evidence that SCHs carefully assess the potential risks to children already in the home when considering new referrals, an important factor in reducing risks (Hackett et al, 2005 quoted in Mendez Sayer et al, 2018). However, other research found that SCHs lack control over which referrals they take, which can result in an inappropriate or dangerous mix of children (O'Neil, 2001 quoted in Mendez Sayer et al, 2018). Limited control over admissions was linked to the financial consequences of losing justice beds when referrals are refused. Apart from the question of risk, some studies suggested that placing children from the justice system alongside welfare children may cause them anxiety or was not 'right' (Goldson, 2003 and 2007; O'Neil, 2001 quoted in Mendez Sayer et al, 2018).

Two witnesses consulted by the Inquiry and quoted in the report said that, despite coming from different routes, children in welfare and justice placements are often similar.

They also noted that secure homes have discretion to refuse referrals that are not appropriate (IICSA, 2019 paragraphs 41 and 42).

The IICSA research team also carried out a qualitative study (Soares et al, 2019) to find out the extent to which children feel safe from sexual abuse in the youth secure estate, and the role of staff, systems and processes in keeping children safe. The study included in-depth interviews with a total of 27 children and 21 staff members in 1 YOT, 1 STC and 2 SCHs that provided both justice and welfare placements. The SCH sample included 9 children, 6 of whom were on welfare orders, and 10 staff. The study identified a number of issues critical to keeping children safe. For example, children had a limited understanding of child sexual abuse and the range of behaviours constituting it, and education on the topic was not offered to children as standard but limited to targeted interventions for those identified as needing particular support in this area.

Children in all types of establishment expressed some concerns about who they were sharing a living space with, particularly those who had committed the type of offence they had been victim to. They expressed particular concern about being placed with anyone who had committed a sexual offence, though the authors concluded:

This was influenced by a wider stigmatisation attached to this specific offence type (rather than feeling at risk of being sexually victimised) (Soares et al, 2019: p. 37).

The biggest threat that children perceived to their safety was from other children. Fear of bullying and violence was primarily an issue in the YOI and STC context, whereas the unpredictability of other children's behaviour arising from mental health problems was more prevalent in SCHs. While identifying areas for improvement, from the evidence collected the IICSA research team concluded that:

Child sexual abuse did not emerge as a significant issue or concern for the children that were interviewed. Both staff and children perceived that the risk and opportunity for child sexual abuse to occur in their respective establishments was low. There was a widely accepted belief among children that child sexual abuse 'couldn't happen here' or 'wouldn't happen to me'. This was due to the range of prevention measures and protective factors in place – most notably meaningful positive relationships between children and staff (Soares et al, 2019: p. 58).

To summarise, the evidence presented by the Inquiry in relation to mixed justice and welfare SCHs indicates that it could potentially present additional risks for staff to manage, and that some adults and children are uneasy about whether it is 'right'. No clear evidence was presented, however, to confirm that it leads to an increase in sexual

abuse and further exploration is needed. Stakeholders with expertise in the SCH sector were asked for their views on the topic.

### 2.2.2 Stakeholder views

Respondents questioned why a child placed on criminal justice grounds should be seen as more likely to pose a risk of sexual abuse to other children, and therefore why separating justice and welfare placements might be indicated. As this SCH respondent explained:

I'd be interested to see ... what research was done to ... come to that statement ... It's almost saying to children who have committed a crime, you're a far more sexual risk than a child that hasn't committed a crime. Well, actually, there's lots of children that commit crime who are no more a sexual risk to another child than anybody else.

There was a strong consensus among respondents that the remit of SCHs is to care for some of the most vulnerable children in our society, provide them with a nurturing environment where they can be children again and their individual needs can be met. Respondents argued that all children in SCHs have complex needs and could be described as being there for 'welfare reasons', whichever pathway they followed. As the respondents quoted below explain, using bureaucratic labels such as 'justice' and 'welfare' to inform decisions about children's vulnerabilities, risks and how they should be treated was contrary to the ethos and values underpinning their practice. As this SCH staff member explained:

It just betrays a complete lack of awareness and understanding of what we actually do and what children are like. Children are children first and it's our job ... to keep children safe and enable them to progress and thrive and move on ... we see to their individual needs and the reasons for them being here are kind of irrelevant. ... This idea that you have secure children's homes where children with sexually harmful behaviour preying on the welfare kids it's a complete misunderstanding of how secure children's homes work.

There was also concern among respondents that the IICSA conclusions could send a very negative message about some of the highly vulnerable children who are cared for in SCHs, as illustrated in the quotes below from national stakeholders and SCH staff:

So are we saying that children that have committed a sexual offence, but actually they've come in and they're more of a harm to themselves, that we're going to isolate them from other children? That to me, is against their human rights ... they are prolifically self-

harming, they're internalising, they're trying to kill themselves, stuff like that. So are we saying that we're going to lock them in a flat or a room or keep them segregated from other children, just because they happen to have committed a sexual offence?

I think it gives a really bad message that welfare children are innocent victims and children in custody are nasty criminals, which they're not.

We need to be really careful, especially with the media and the heightened anxieties within the communities. We struggle to place our children when they leave us anyway, whether they're here for YCS or welfare grounds. Once you introduce ... a statement like that, a community where we want to place children back to, immediately it's going to say, 'On criminal grounds he's a rapist, he's going to be a harm to my children.' Also ... if we're going to say that YCS children are a far greater risk of sexual harmful behaviour towards other children, then we need to evidence that and then we need to be very clear how are we going to reintegrate these children back into society. Because they are children ... Are we going to keep these children locked up for the rest of their lives?

Not seeing all young people as young people, does all young people a massive dis-service. I think until we start considering both routes as outcomes of the same things, then we will continue to make the same mistakes and we will continue to victimise children ... it's seeing them as just perpetrators and that's all they are, all they are is their offence, and that is extremely sad. ... you're looking at really traumatised young people ... just focusing on the one thing that they did, not all the things that have happened to them, does them such a massive dis-service.

Given that the risk of sexual abuse by other children in SCHs appears to be very low and, as discussed later, not linked to the legal pathway through which children arrive in a secure placement, respondents did not think there was any reason not to care for justice and welfare children alongside each other. They also thought that, for a combination of reasons, stopping homes from providing mixed justice and welfare beds could be detrimental for children. This theme will be considered in more detail in chapter 6.

### 3. Placement decisions and dilemmas

Respondents made it clear that they take decisions to place a child into a SCH seriously. They are a scarce and expensive resource and both justice and welfare professionals want to use them only for children who will benefit the most and could not safely be placed anywhere else. The processes for allocating placements are, however, very different according to whether children are referred through a welfare or justice pathway. This chapter presents respondent's descriptions of how both systems operate and the criteria for deciding on the suitability of referrals, including the levels of risk that children may pose. It demonstrates that it cannot be assumed that it is primarily the welfare children who have complex needs: SCH placements are used by the YCS specifically for children who fit that description.

#### 3.1 The welfare pathway

In response to the pressure for welfare secure placements, and the frustration caused to local authorities of having to ring individual SCHs to identify a vacancy, DfE commissioned Hampshire County Council to establish and run the SWCU. They have been operating since 2016 on a rolling contract to:

- identify vacant welfare beds within SCHs
- provide a standardised referral form for local authorities seeking a placement
- pass referrals on to SCHs and follow-up to elicit their response
- collect data on the characteristics and needs of children requiring a welfare placement

The system for local authorities to request a welfare placement is described in a guidance document available on the Secure Accommodation Network website<sup>8</sup> and there is a standardised referral form requesting detailed information about the child. This form has evolved over time in the light of feedback from SCHs about what information they need to make an informed decision and is accompanied by guidance and examples of completed referrals. For example, if the referrer reports that a child has committed an assault, it is important to know more about the context: was it random or planned; against a stranger or someone known; was it in retaliation? SWCU staff said they have become 'sticklers' about insisting that all the information is complete before they will submit the referral to the SCHs. In theory, local authorities should have secured the promise of a bed before they apply to court for a S25 order, but this does not always happen: the Unit sometimes receives desperate requests from authorities for a child subject to a S25 order and with nowhere to put them.

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<sup>8</sup> <http://www.securechildrenshomes.org.uk/nswcu/>



SWCU staff are not decision-makers and neither is it within their remit to match children to specific homes. Instead, all referrals are sent to all SCHs with a vacancy. SWCU staff then follow-up referrals until they get a response from the homes. All children are high risk by the time they are being considered for a welfare secure bed but some 'ring particular alarm bells', such as gang-affiliated children where police suggest they are at imminent risk of being killed. These will be flagged to SCHs so that they can look at them first or, if requested, SWCU may approach YCS to see if they can release one of their beds for spot-purchase. The YCS will often agree to this, albeit with a short time-limit that can create further disruption for the child if they then have to be moved. Once a place has been offered by an SCH, the authority and SCH will decide how to proceed and make any arrangements.

Data provided by SWCU for this study shows that, at any one time, there are between 25-35 open referrals and some children are never offered a place. At times, there are no beds available at all: this happened on 49 occasions in 2018, and between July and September 2019 there were 130 referrals of which only 57 resulted in the offer of a bed. The fact that SCHs are asked to consider all the open referrals can cause delay. If it were in the remit of the SWCU to filter referrals, they could use their knowledge of the existing population within each SCH to target referrals according to those likely to provide the best fit but that would make them accountable if anything went wrong. Within the current operating model, responsibility sits with the 152 local authorities and SCH managers.

### **3.2 The justice pathway**

The system is very different for justice children. In 2017, the YCS within Her Majesty's Prison and Probation service (HMPPS) took over responsibility from the Youth Justice Board for the placement of all children remanded or sentenced to detention. This is a centralised service, with all placement decisions taken by the YCS Placement team. The following is a summary of the placement process as described within guidance and by staff within the service (HMPPS & YCS, 2017). There are 3 types of detention facilities available to the team: Young Offender Institutions (YOIs), Secure Training Centres (STCs) and contracted beds within SCHs. Apart from the fact that boys younger than 15 years and girls of any age cannot be placed in a YOI, there are no fixed criteria for deciding where to place children. Decisions are based on the child's individual needs and circumstances as described by their Youth Offending Team (YOT) in the Custody Module within AssetPlus, the assessment and planning framework for children in the youth justice system (YJB, 2016). The information requested within the Custody Module is similar to that within the referral form for welfare referrals, although much of it will be pre-populated from the child's core record. The quality of this information is variable. Sometimes the child will be relatively unknown to the YOT if they are being detained on remand. At other times the information may be completed by a Court Officer who has

never met the child before rather than the child's allocated YOT officer. In spite of their efforts to seek information that is relevant to the placement, one respondent said:

The paperwork is very justice-driven. It will ask if the child is statemented, if the child is looked after, but wouldn't necessarily lead you to ask the more detailed questions ... around really who that child is, and how best to look after them. Then I think the establishments have got a very difficult time, particularly with the more challenging children in the first few days, where they maybe don't have all of the information that they need.

Although the YOT are asked to recommend the placement they think most suitable for the child, it is the Placement Team that decides. YCS guidance suggests that for an SCH or STC placement relevant considerations might include: 'young age; low levels of maturity; inability to function in large groups; requirement for high levels of support' (HMPPS & YCS 2017: para 20). For a YOI placement factors might be: 'previous custodial experience where resilience has been demonstrated; a sentence which will require transition to adult custody; need to access specific programmes required for the parole process; emotionally mature and resilient' (as above). Placement staff are under considerable pressure because the child, at this point, will be waiting in the cells at court and needing to be moved as soon as possible. Respondents told us that their preference, if a decision is borderline, is to 'place down' into a more supportive setting because they do not want to put the child at risk. SCHs are seen as the placement of choice for 'high-risk, high-harm' children. However, there are counter-pressures: they do not want to use up that scarce resource in case a younger, even more vulnerable child, needs it and they do not want to waste time on making referrals of children they think SCHs will not be able to take. Any risk that a child may pose to others, including the risk of sexually harmful behaviour, is taken into account when deciding where to place but all settings are expected to be able to manage a degree of risk: it is an integral part of their remit.

### **3.3 The SCH response**

#### **3.3.1 Factors relating to the system**

While the ultimate decision whether to admit a child rests with the provider, respondents described different pressures when considering referrals from the two systems. They felt under more pressure to take justice placements because the beds have been block-purchased by the YCS. Homes are given 30 minutes, which can be extended to an hour, to consider the referral. SCHs understood the time pressure, but said it was a challenge to review the information properly in that time. If they decline to take a child, they must put their reasons in writing and the home may incur a financial penalty. In practice, the Placement Team and SCH manager will normally have a dialogue in cases where they

do not feel they can meet the child's needs. Respondents in SCHs said that the Placement Team are responsive to reasonable arguments: it is in no-one's interests to place a child in an unsuitable setting. In addition, registered SCH providers must comply with regulations requiring children's homes only to admit children if they can meet their needs alongside the needs of other children already placed - and are open to criticism by Ofsted if they breach these<sup>9</sup>. On occasions, the SCH will accept a child but signal that it may not work as this respondent stated:

[There are ] maybe 5% where we'll say: 'We don't think that this is an appropriate placement, we will give it a go, but we may have to come back to you'.

In fact, SCH staff reported that they rarely ask for children to be transferred once they have been placed. Examples included a boy who requested a move himself because he felt he had 'outgrown' the place, and children who had seriously assaulted staff or peers.

With welfare referrals, however, there is no deadline for the home to make a decision and they are at liberty to refuse any child with no contractual consequences. The mismatch between the supply and demand for welfare placements means homes can make a positive choice about children considered to be the best match, whereas justice children are likely to be accepted unless they pose too great a risk or are thought to be unmanageable. There was concern that this delicate balance could be de-stabilised further if the demand for YCS beds increases so that they are no longer open to arguments that a referral is unsuitable, or if the demand for welfare beds decreases to the point where SCHs cannot choose from a range of referrals if they want to fill their beds.

The disparity in the two systems can mean that children that would not have been accepted on welfare grounds may be accepted on justice grounds because of the higher threshold for refusal. This has led to anomalies whereby, for example, a girl who was turned down for a welfare placement was placed there by the YCS two weeks later.

### **3.3.2 Factors relating to the children**

Respondents confirmed that the quality of the information that homes receive is variable. Both referral forms contain information about the child's background, needs and risks. In addition, the welfare referral form has a section on what the social worker is hoping the placement could offer, which provides a useful focus as reported by SCH staff:

I suppose it fundamentally looks at why no other resource would be able to care for this young person and the reasons why are so

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<sup>9</sup> Children's homes (England) regulations, 2015

prolific, going missing, drug taking, or whatever it might be. Then a bit about the history of the young person and then what the expectations or hopes are for this young person in the future, so you have a potted history in a few pages, whereas I suppose the Youth Custody Service paperwork is a bit about a profile for the courts.

In spite of the different pressures within the two systems, factors that were cited when considering the suitability of particular referrals were consistent across the pathways and related to the child's behaviour rather than whether they were a justice or welfare referral. The most important consideration was not to do with the individual child, but rather the impact that child would have within the mix of children already placed, as required by regulations. This could be other gang-affiliated children, self-harmers or those at risk of sexual exploitation, but too high a concentration of any single type of need was seen to be detrimental, such as:

... girls who self-harm, and we have a group of girls who tend to bat off each other and they encourage that behaviour in each other. We've got 3 of those girls currently in 1 of our children's homes and we referred another with similar issues, and they were very, obviously, very wary! Actually, when we looked at it, we were better placing elsewhere...

This concentration of a single type of challenging behaviour can not only encourage children to 'join forces' and compete with each other in escalating their activity, but potentially encourages other children to acquire the behaviour. The gender mix was also cited as being important, with homes having identified that they functioned better if there was a balance. One reason for this was that homes wanted to normalise the environment as much as possible, whilst acknowledging that the security of the setting was anything but normal. Respondents were generally opposed to the idea of specialisation where children with specific needs are cared for in isolation. Rather, they wanted to offer children the skills to succeed in the real world, whether in work or relationships, by living alongside people who were not just like themselves. More pragmatically, specialisation could be unsustainable given the pressure to fill beds in a fragile market.

Even if SCHs do have doubts about their ability to cope with a particular child, that does not mean they will not take them. Sometimes they request additional resources from the placing local authority or via the YCS Critical Case panel so they can offer at least one-to-one staffing. In an example, where a child needed personal care because of a disability, the SCH reported:

We're not really geared up to be doing personal care, ... but do you know what? ... we put a programme together, within 2 hours we had

a plan... It's about being reactive initially, in a proactive manner to say, 'Whatever the child throws at us, we will manage it.'

This sense of rising to the challenge was expressed by many staff working within SCHs: 'I suppose our philosophy is more about let's try and give this child a chance anyway', even if they reserved the option to review the decision at a later point. They saw it as their job to support the most complex children and not to 'cherry pick' in the interests of a quiet life. In fact, some managers wanted to take children who would test the home's ability to cope so that staff would develop their skills and resilience. There was some variation, however, with other homes questioning whether an SCH is the best place for older children with extremely aggressive behaviour. This was partly because of the risk it posed to other children, but also because some children were said to consider themselves too mature to buy into the 'parenting model' that this particular home offered and were less likely to benefit. Another home was comfortable about taking children with a history of violence, partly because their high specification building enhanced their ability to manage such behaviour safely.

Both the justice and welfare referral forms ask about sexual offences, sexualised or sexually harmful behaviour. SWCU analyses this information into sub-categories, including alleged assault, inappropriate touching or grooming other children for exploitation. Referrers within both pathways are also asked to identify children considered to be vulnerable to sexual exploitation. Interestingly, a history of sexual offending or sexually harmful behaviour was not seen by national agencies or SCHs as a reason for being reluctant to take children. This is partly because, as discussed in chapter 4, such children tend not to present particularly challenging behaviour in secure care, and partly because the environment severely limits the opportunities to engage in sexual activity. As with other risk factors, however, homes did not want too high a concentration of children where sexually harmful behaviour – either as a victim or perpetrator – was an issue. Managing such children is, however, a daily part of what they do and will be considered in more detail in chapter 5.

The question of where the boundary lies between challenging behaviour and mental ill-health is more of a dilemma within SCHs. Meanwhile, children were described who appear to be falling into the gap, such as this girl in the justice system:

We have got a very live example at the moment, of a female, who is currently accommodated in [STC], who has been in the welfare sector, who presents in an incredibly risky way; is very violent, has put staff in hospital, but has had days where she's probably ligatured about every 20 minutes. We are desperately trying to find a suitable placement for her, and we're really struggling. In the mental health sector, if a child is not diagnosed, or where there aren't treatment

options, then they won't look after those children. That's a live example of a child who we really would want to be accommodated in the SCH sector. I think most of them have had her, on a welfare ...

Both justice and welfare referral systems could find it difficult to get good quality information from health professionals in the community. Sometimes SCHs sought the help of their own health care staff in making sense of information. This presented ethical problems both in terms of trying to make judgements in the absence of proper assessment, and in the accountability for any advice given. One home is actively in discussion with their health care team about formalising this arrangement.

## 4. What do we know about the children in SCHs?

In this chapter we will focus on exploring the premise that the justice and welfare children are different cohorts, presenting different needs and risks. Firstly, we present the findings on the characteristics of justice and welfare children placed in SCHs. We then explore what factors determine whether a child is placed in a SCH via the justice or welfare pathway, and to what extent these pathways overlap. In the final part of the chapter, we discuss what risks children pose and whether there is evidence that the 'welfare' and 'justice' labels provide a reliable way of establishing the nature and level of risk children pose to each other.

### 4.1 Characteristics of justice and welfare children

There was a consensus in our sample that the common factor shared by all children in SCHs is a very high level of vulnerability, whether they enter via a justice or welfare pathway. As discussed in chapter 3, respondents noted that children are only admitted to SCHs if they meet a very high threshold of need and there is evidence to suggest that they would not be safe in another setting (e.g. a STC/YOI or an open children's home/ foster care). As a national stakeholder and SCH staff member explained:

They are just children that have had different legal outcomes but everything else is the same, issues of developmental delay, lack of cognition, lack of nurturing. Nobody who comes into our world comes into it because they're having a fun time in life, it's because they've got issues and problems.

It is about their vulnerability, we could have the most vulnerable children in the Youth Justice system, who are perpetrators, but who have also been victims of horrific offences. Actually, in that setting, they are not the perpetrator, they become the victim.

The range of vulnerabilities described by SCH staff did not seem to be linked to whether children came through a justice or welfare pathway and included: speech and language problems; physical and learning disability; severe trauma; mental health issues such as anxiety, depression and post-traumatic stress disorder; and behavioural disorders such as ADHD.

The statistics also support the anecdotal evidence provided by respondents. Unpublished data provided for this study by the SWCU from an analysis of welfare referrals received between September 2016 and March 2019 shows that the most common presenting needs included:

- absconding/physical needs (99%)
- challenging behaviour (92%)
- substance misuse (85%)
- offending behaviour (82%)
- sexual exploitation (53%)
- self-harm (52%)
- mental health issues (51%)

A study by the Youth Justice Board on the key characteristics of admissions to youth custody (Youth Justice Board, 2017) shows that, between April 2014 and March 2016, the most common concerns about children placed in SCHs included:

- learning disability or learning difficulties - including children with a Special Educational Needs statement or where professionals believed there are special educational needs (47%)
- suicide or self-harm (46%)
- substance misuse (45%)
- disengagement from education (45%)
- mental health problems (44%)
- physical health problems (41%)
- sexual exploitation (25%)

The study also shows that 17% of these children had a child protection plan and 40% were looked after.

## **4.2 What determines whether a child is in a welfare or justice placement?**

Respondents argued that factors other than the child's offending behaviour could determine whether they went down a justice or welfare pathway, reflecting different approaches and thresholds at local level, and there is an overlap between these two pathways. These two issues are explored in the rest of the section.

### **4.2.1 Arbitrary decision-making?**

Respondents observed that some local authorities may seek a welfare placement rather than risk further criminalisation of a child. Respondents also believed that changes in policy, professional attitudes and understanding of children's vulnerabilities shape decisions on whether to place children on welfare or justice grounds. For example, respondents thought that a policy decision to avoid the criminalisation of looked-after-children has meant that welfare placements are more likely to be considered for these children with offending behaviour. Similarly, whereas gang-associated children may once



have been dealt with by the criminal justice system, practitioners were now reported to be more likely to intervene to detain them for their own safety on welfare grounds. Respondents thought that the focus on knife crime and county lines has led to a recognition that these children are also at risk. Conversely, respondents argued that a shortage of welfare places and an objection in principle to secure accommodation for welfare reasons within some local authorities can mean that high-risk children who should have been placed in secure accommodation under S25 are left until they are eventually picked up by the justice system. As this SCH respondent explained:

My experience over the last 14 years is that children placed on a criminal route, could quite easily have come in on welfare route, and children placed on the welfare route could quite easily have come in through the criminal route. A lot of children placed on welfare grounds have ... multiple assaults on care staff in the open homes or there's other criminal behaviour, but actually the courts or the local authority have decided to bring them in through the welfare route ... Due to cuts in local authority funding, we're getting children, through the criminal route, who should have come to us on the welfare route a long time ago. ... [and] there are insufficient welfare beds ... children are left vulnerable longer in the community or they're in inappropriate placement in the community.

Some respondents also argued that placement decisions can reflect cultural assumptions and prejudices, so girls may be less likely to be given a custodial sentence and therefore more likely to be found in welfare placements than boys, even when the offending behaviour is very similar. Cultural assumptions could also account for the over-representation of children from ethnic minorities among justice placements. As a national stakeholder explained:

A vulnerable 14 year-old girl will always be placed in a SCH even if she is in trouble with the law, while the same option is less likely to be considered for a similarly vulnerable 14 year-old black boy ... the appetite is different between girls and boys and different ethnic groups and we need to challenge that.

Finally, respondents reported that offending behaviour was common among welfare children. As these SCH staff explained:

A lot of the young people that we get in even on welfare are on the borderline of criminal convictions anyway. So a lot of the welfare kids that we have already have YOT workers. They've already got criminal proceedings ongoing. We've had young people come in who

have come in on welfare and then transitioned to being on remand or having a custodial sentence as well.

Sometimes you can have young people on section 25 orders who come in and have so much knowledge about criminal activity that they almost 'outshine' the young people who are through the justice system.

Data provided by the SWCU for this study supports this anecdotal evidence. As stated earlier, between September 2016 and March 2019, 82% of referrals for a welfare placement involved children with previous convictions or outstanding offences.

#### **4.2.2 The overlap between welfare and justice pathways**

The evidence suggests that individual children do not necessarily follow a single justice pathway or welfare pathway. All SCHs reported examples of children who had been placed on welfare grounds but then stayed on or returned on remand or sentence through the criminal court. They also described children who had first been there on a justice placement and then stayed on or returned on a welfare placement, usually because suitable post-secure placements could not be found or quickly broke down, as reported by this respondent:

Sometimes when they've come in on criminal grounds and they're due to leave, it's hard to find a placement for them. They still feel, for all their sentences are done and deemed concluded and they've done their time, that they're still at risk of harm to themselves, harm to others. ... a lot ... could be still at risk of sexual exploitation. So obviously they might be placed here on a welfare order for their own safety.

Again, unpublished data from the SWCU provided for the study confirms this. Between July 2017 and September 2019, 12% of welfare referrals involved children who had previously been in a YOI, STC or justice placement in a SCH. There is no comparable data to establish the proportion of remanded or sentenced children who had previously been placed in an SCH on welfare grounds, but respondents confirmed that it is a frequent occurrence.

#### **4.3 What risks do children pose to each other?**

As noted in chapter 2 the IICSA evidence review raised the question as to whether children in justice placements are the 'high-risk' children and can pose a risk to their peers on welfare placements. However, we found considerable qualitative and statistical

evidence showing that the justice and welfare categories do not provide an indication of the level and type of risk children pose to each other. More specifically, as indicated below, none of the evidence collected shows that justice children present a higher level of risk than other children in SCHs.

### **4.3.1 Risk of violence**

Staff in SCHs reported that the most common risk that children pose is that of violence and aggression, primarily directed at staff but in some cases at their peers too. As this respondent from a SCH explained:

... 99% of the difficulties we have are around violent confrontations, most of the restraints are because of violence.

National stakeholders also thought that violence was the most common risk that children pose to their peers. They noted that SCHs are struggling with an increasing number of very violent children and it can be difficult to find placements for them.

Respondents reported that children placed on welfare grounds are often just as violent, or more violent, with respondents citing their inability to self-regulate and control their emotions as the driver of their violent and aggressive behaviour. Some respondents said that the number of welfare children whose behaviour they struggle to manage is higher than the justice children and is increasing. They noted that the number of children on welfare placements transferred to secure mental health provision is also going up. As this respondent explained:

In my experience, welfare children tend to be more aggressive, they've got more mental health issues, they are more likely to have incidents than YCS children.

Some SCHs reported that most incidents and restraints involve welfare children. One home we visited with a 50:50 split of welfare and justice beds provided their internal monitoring data showing that in the previous year, 93% of restraints and 65% of separations involved welfare children. Welfare children also accounted for most incidents overall (83%), particularly incidents involving self-harm. They were also involved in 46% of incidents involving physical aggression and 22% involving damage. Another SCH reported that their region had undertaken an analysis of their internal records of incidents from a range of settings where children can be detained (including a YOI and police custody) and found that, although welfare children were in the minority, they accounted for the most incidents of restraint, self-harm and referrals to the Local Authority Designated Officer.

### 4.3.2 Risk of 'contamination'

As raised in chapter 2, another possible risk between peers was related to children copying or learning problematic patterns of behaviour from each other, including violent, sexually harmful and self-harming behaviours. Respondents thought that these risks could be posed equally by welfare and justice children. However, they reported that children themselves and parents may express fears for a child's safety when exposed to peers from the justice system. As one SCH staff member described it:

I've been on the phone to parents and they've said, 'Well, I don't want my child with a rapist. I don't want my child with a murderer. Why have you put them in there? That's not going to keep them safe; that's going to put them more in danger'.

This is partly because of the perceived risks of direct harm, but some parents and professionals were reported to be anxious about children forming friendships with others who could draw them into criminal behaviour. One home reported that social workers had said:

... 'if you accept this child, can you put them in a unit with just welfare kids because I don't want them getting involved in offending behaviour', but when you see the referral, it's all offending behaviour – they just haven't been to court.

Respondents did not believe these concerns were justified, as it is very unusual for children to maintain friendships after discharge. Furthermore, respondents argued that most children had already been exposed to these risks in the community, regardless of their offending behaviour or whether they had been placed on welfare or justice grounds or been charged.

As in any setting, sub-groups will form and there will be a 'pecking order'. One practitioner believed that there is a risk that the older, more confident boys from a justice background will 'talk about their crimes 24/7' and become the 'alpha' males. They mentioned examples of children learning to use 'offending language' in an attempt to fit into this narrative. Although the same respondent also pointed out that these identities and sub-groups already exist in the community and are not a phenomenon that stems from being in secure care. Furthermore, negative behaviours presented by some welfare children could also be copied, particularly self-harming, as described by this respondent:

... it has almost become a competition where 'I've cut my arm, are you going to cut yours?' 'Now I've cut my face, are you going to cut yours?'

Although some negative behaviours were reported to be more prevalent within children from one legal pathway, the picture was very complex and the labels of justice and welfare could not capture this complexity. For every example of a risk posed by one type of child, there would be a counter example.

### 4.3.3 Risk of sexually harmful behaviour

Respondents noted that sexually inappropriate and harmful behaviours were common in the backgrounds of children entering SCHs, regardless of the entry pathway. As this respondent explained:

Nine out of 10 times our children, be it justice or welfare, display sexually inappropriate behaviours which to them is normal because of the background of sexual abuse before they came here.

Unpublished data provided by the YCS and SWCU for this study shows that between 2016 and 2019<sup>10</sup>:

- Estimates based on records available suggest that fewer than 1 in 5 of children placed in SCHs on justice grounds had committed a sexual offence
- Whilst the number of children referred for welfare placements with past or outstanding sexual offences was lower (4%), just under 1 in 6 (17%) were reported to have a history of sexually harmful behaviours<sup>11</sup>.

Data on sexually harmful behaviour, other than that related specifically to the offence, was not available from YCS. One home in the study, however, provided some data on risks related to child sexual exploitation (CSE) prior to children entering the home. The data shows that since January 2019, in a fifth of their welfare placements there was definite evidence that children had been involved in the sexual exploitation of their peers, and, in just over a third of cases, it was suspected. The corresponding figures were lower among the justice placements, with definite evidence in one in ten cases and suspicion in a fifth.

Whatever the history of sexually harmful behaviour, respondents argued that the risks these behaviours pose to other children within the SCH context were low, and more

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<sup>10</sup> Data on children placed in SCHs on justice grounds that had committed a sexual offence was only provided from the YCS for the period January 2016 to May 2019.

<sup>11</sup> SWCU use the referral information to categorise children who display sexually harming behaviours, which include: charges of sexual assault and rape; inappropriate touching which results in the harm of another person i.e. grabbing and groping; repeated allegations of sexual nature by other young people, unless LA state that were believed to be false/malicious; charges of sexual assault/rape that are dropped but evidence still suggests that incident did take place; perpetrator of CSE, grooming others to be exploited; exposing younger/vulnerable young people to sexual acts; distributing explicit images of other young people, with malicious intent and/or without consent.

manageable than high levels of violence, and extreme self-harming. Some respondents also argued that, in their experience, children with a sexual offence on a justice placement do not typically present a risk to their peers. As one staff member in a SCH put it:

We rarely have any incidents that involve the children that have or are here on sentences for sexual offences. In fact, they're probably the least likely to engage in inappropriate behaviour with other young people.

There seemed to be two main reasons why sexually harmful behaviours were seen as posing a low risk to other children.

Firstly, SCH staff provided anecdotal evidence that there is a strong drive among children with sexual offences to 'fit in and keep their head down'. They argued that these children can be very compliant because they are afraid that their peers may find out about their offence and the implications of that. This includes the 'fear factor' of being sent to a STC or YOI, where children believe they would be subject to bullying and violence because of their offence. The profile of children who had committed a sexual offence varied but a number of respondents said that, for some of them, the circumstances surrounding the offence meant that it was likely to be a one-off and the chance of reoffending was low.

Secondly, respondents in SCHs said that extensive experience and resources (e.g. specialised assessments and interventions, mental health staff) meant that they were able to prevent this behaviour from becoming a risk to other children. This was supported by other respondents who agreed that SCHs are well-versed in identifying and managing sexually inappropriate behaviour, facilitated by the high staffing ratios and controlled environments in which they operate.

The kind of risks respondents reported were linked to children's lack of understanding of acceptable sexual boundaries, described as inappropriate sexual behaviour and language, as discussed in chapter 5. Another common issue reported was children trying to form sexual relationships while in the SCH. The *potential* nature of these relationships, if they had been allowed to develop, could range from consensual sexual relationships that would be considered 'normal' in the community to unhealthy relationships involving manipulation and coercion. However, there was a consensus that because children are watched 24/7 and staff have 'eyes at the back of their heads', attempts to form this kind of relationship never went very far, as discussed in chapter 5 and reflected in the analysis of serious incidents discussed earlier. The danger of sexual grooming was another concern that homes reported, reflecting the rapid increase of children affected by CSE and the fact that CSE victims can become involved in recruiting other children for their abusers. As this SCH respondent explained:

A young lady that's here on welfare, but she is on police bail herself for taking other kids off from the children's home to be abused. That's a classic, and usually, with ... young people that have been entrenched in CSE for such a long time .... this young lady, she'd been entrenched with CSE, probably since she was 12,13. ... she's been exploited massively. People exploiting her will have absolutely said, 'You need to bring this kid along with you and you need to bring this younger kid along with you' ....she's frightened and she's scared, she's scared of the consequences.

None of the respondents in our sample could recall incidents in SCHs involving sexual assault, attempted or actual rape, or consensual sexual intercourse between children.

## 5. Managing risks and meeting needs

Previous chapters have explored the pathways into a SCH placement, and the profile of children who make that journey. This chapter explores respondents' perceptions about the care they receive within the home, including the extent to which the practice of caring for welfare and justice children alongside each other has an impact on SCH staff's ability to manage any risks children may pose and to meet their needs. It confirms that there is nothing to substantiate the concern that it is mainly (only?) the justice children who pose a risk of sexual harm. It also describes the range of strategies used by SCHs not only to keep children safe in the short-term but to try to equip them with the skills to protect themselves in the future.

### 5.1 Approach to risk management

SCHs are designed to keep children safe and, as far as possible, to begin to address some of the behaviours that have led them there. This is true regardless of whether they are justice or welfare children. SCHs are regulated in the same way as other homes, and the Ofsted Inspection Framework (Ofsted, 2019) expects an individualised approach to children's care, regardless of their legal status. As one SCH worker described it:

What we're there to do is that corporate parenting really and then look to see 'okay, what's this young person like? What are his needs? Can we meet them and how do we best meet them?'

Given the nature of their population, analysing and managing risk is a central element of SCH activity. We have seen in chapter 4 that children may display a range of behaviours that jeopardise their own or others' safety. SCH staff therefore described their first task as assessing each child and making a plan, often supported by multi-disciplinary colleagues. This will involve a standard screening tool to assess each child's mental health and then, if required, specialist assessment for factors such as substance misuse or sexual harm. Children will usually be under constant observation at the beginning of their stay, partly because the information provided on admission may not necessarily paint the full picture as one SCH reported:

When you're picking up things afterwards it's not good, and there are times that we've picked up things that I thought: 'wow, we should have known that.'

Where children are thought to pose a risk to others, consideration will be given to the context of their past behaviour: what age were the victims; were they known to the perpetrator; was it a one-off incident or a series of events? This will inform assessments of future risk, and a number of examples were given of children in their early teens



having been charged with a sexual offence against a younger relative where they posed no risk to peers or adults in the SCH. As discussed in chapter 4, these children are typically keen to 'fit in' and usually present few management problems, although one respondent warned that children skilled at grooming behaviour may use it to 'get staff on their side' which can disrupt the dynamics within the peer group. Other children with no convictions for sexual offences were often said to pose a higher risk of sexually harmful or inappropriate behaviour, particularly children whose life experiences have led them to see coercive and sexualised behaviour as the norm. Examples of sexually inappropriate behaviour were described in terms such as 'eyelash fluttering'; 'flirtation' or sexualised language as opposed to touching or exposure.

Following assessment, risk management plans will be put into place containing a range of strategies. These are not static and frequently reviewed both formally and informally with multi-disciplinary colleagues.

### **5.1.1 Harm prevention strategies**

#### **A safe environment**

The design and quality of the building is an important factor in keeping children safe, not just because it reduces hazards such as ligature points or potential weapons, but because it allows staff to 'relax' and focus on what matters: the relationships with the children. One home has moved to a high-specification building where the windows cannot be broken, door frames cannot be damaged and walls can withstand being kicked. This has resulted in reductions in the use of restraint because staff no longer feel the same need to move in to prevent children from coming to harm.

#### **Assigning a peer group**

SCHs vary in size, with some of the larger homes being organised into a number of separate houses where children live together in smaller groups. All homes, however, described having some capacity to care for children in separate groupings. There are different operating models for allocating children to particular sub-units: some homes have no fixed criteria but decide based on the likely impact of a child's behaviour on the peer group; others have designated units for boys or girls, for example, or for welfare children with complex needs. Again, the experience of staff is that it is best not to have too many children with the same behavioural needs living together. As one SCH practitioner said:

We've found that 3 girls together is carnage, and that gang-affiliated boys may need to be placed apart.

Staff try not to move children around once they are assigned to a unit because they want them to see it as their home, but the possibility is there if risks become too great.

### **Levels of supervision**

All settings have extensive CCTV coverage and this, combined with high staff-to-child ratios, means that staff always have 'eyes-on' the children. The intensity of this observation will vary according to need, but the only time that children are not observed is when they are alone in their bedrooms. Sometimes it is decided that one or two members of staff will be with a child at all times, or that staff will only enter their bedroom in pairs. This could be because children are violent or staff are worried that a child may make allegations against them. Body-worn cameras may be used to protect both staff and children where violent incidents are thought to be likely or where there may be a need to review the evidence to make sure practice has been safe and appropriate. Rooms within the home, including bedrooms, are locked, as are the corridors leading to different areas of the home.

### **Managing peer interaction**

Children are not allowed in each other's rooms and their interaction is monitored. If it is thought that specific children may pose a risk of any kind of harm to each other, the level of staff supervision may be increased or the staff monitoring CCTV may be asked to look out for any warning signs. In one SCH, an example was given where two children that staff were worried about were seen to exchange a note. If the concern is great enough, children may be kept completely apart. Staff reported mixed feelings about restricting the interaction between children: they want to normalise the environment and would prefer to work with children to understand and learn from any incidents. There is, however, the counter-pressure to prevent any incidents for which staff could be blamed. This can lead to a risk-averse approach. In one SCH, staff described their reaction when a 16 year-old boy and girl started a relationship:

We became a bit – they can't even sit together, they can't even do anything. But then we said, 'no – hang on a minute. We've got 2-to-1 staff supervision here: we've got a bloke sitting in the control room with all the screens on the wall. We've got all these systems in place – so as long as we put some strategies about how to have a normal relationship that isn't just sexual...'

In other cases, however, the children's backgrounds or the power imbalance between them mean that the risks of allowing children to be together are too great, as with Jason and Martin.

## **Jason and Martin**

Jason is 13 and serving a sentence for sexual offences against a younger child. Although the family appeared to function well, it emerged that there were generations of sexual abuse and Jason had been exposed to pornography from a young age. He engaged well with the sex offender treatment programme within the SCH, which found that he was very confused about sexual boundaries and did not realise that what he had done was wrong.

Initially, Jason was very quiet and withdrawn but he then formed good relationships with staff and peers and his behaviour has been exceptionally good. Staff are positive about Jason's future and do not think he poses a sexual risk, but they do worry that he might be vulnerable to sexual abuse by others because of having been sexualised at an early age.

Martin is 15 and a welfare placement. Again, there were generations of sexual abuse in Martin's family and they were well-known to children's services. Martin's mum neglected him and was in a very violent relationship with a man who physically abused him. Martin has a previous conviction for a sexual offence against a younger child but his current admission to secure care is a result of a S25 order.

Martin is considered to be at risk of self-harm, a sexual risk to other children and female staff and a risk to others because of his violence. His behaviour has included making weapons and writing sexually graphic or inappropriate letters to staff and peers. His risk management plan is for 2-to-1 contact with female staff and interactions with peers are closely monitored. Martin has tried to groom Jason, and Jason, in turn, seems to gravitate towards him. Staff are constantly vigilant and keep them apart by identifying other activities for one of them to do - although they cannot break confidentiality by telling them why.

## **Controlling the narrative**

Staff are aware that children are at risk of bullying, or of being excluded from the peer group. For example, in one home a child refused to come out of his room because of the attitude of other children to his offence. As a result, children are encouraged not to discuss the reasons for their admission although SCH staff told us:

That's the first question the young people ask the other young people when they come in: 'Are you welfare or are you criminal?' Obviously young people are not adept at going, 'Oh, none of your business.' You know what I mean? They're not going to do that. That's instantly going to isolate them from that group.

For children who have committed offences that may put them at risk from peers, staff will help them to prepare a 'cover story'. This is usually another type of offence that would attract a similar sentence but carries less of a stigma. It is the same with the welfare

children: 'We say "you're in for your own stuff, it's no-one's else's business".' This does not always work. As in any setting, there can be rivalries within peer groups and children may use information to try to impress or control. One respondent said:

Obviously if a child goes in there and says, 'I'm here because I raped somebody' and you have some vulnerable girls who have been the subject of CSE or one of the boys has been the subject of CSE, then that might unnerve them. It's a kind of indirect form of bullying and threatening behaviour - or it could be.

Staff will try to cut through some of this narrative by emphasising the commonality amongst the children rather than their differences:

... you're all here because of your behaviour and it's looking at that behaviour and how to help *you* resolve or deal or change that.

### **5.1.2 Addressing the causes of risky behaviour**

The strategies discussed so far have focused on the practical tools that staff deploy in order to minimise the triggers and opportunities for children to harm each other. There is a recognition, however, that this can lead to an unhelpfully risk-averse approach: SCH staff also expressed their commitment to helping children change the behaviours that brought them into secure care. This does not necessarily mean embarking on treatment programmes, although the increase in mental health provision provided by the SECURE STAIRS<sup>12</sup> initiative provides some resources for this. The model is based on the 168 hour principle: that intervention should not be seen as the hour a week that a child spends with a clinician but as the other 167 hours engaged in daily living. The model aims to integrate clinical staff into the secure setting so that front-line practitioners are supported to work with children in a psychologically informed way and create environments where positive change can happen. The ways in which respondents thought the causes of risky behaviour could be tackled were as follows.

#### **Relationship based practice**

Given the short time children spend in secure care and the complexity of their needs, it may be that a better understanding of the child and a transition plan for their future care

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<sup>12</sup> SECURE STAIRS is 'an integrated care framework that addresses the needs of children and young people in SCHs, STCs and YOIs. It allows for a joined-up approach to assessment, sentence/ intervention planning and care, including input from mental health staff regardless of previous diagnosis, as well as from social care professionals, education professionals and the operational staff working on a day-to-day basis at the setting. It also seeks to ensure that staff have the right skills and support to care for the children and young people appropriately.' <https://www.england.nhs.uk/commissioning/health-just/children-and-young-people/>

is the best that can be achieved (Hart and LaValle, 2017). There are daily opportunities, however, to create a milieu that supports children to regulate their behaviour:

Every interaction matters, every exchange with a young person and between us and staff in front of young people, that is the thing that creates the attitudinal change and the change in the pathways in the brain.

... the best interventions, that will make the difference to these kids [are] how you interact with that child every morning when you get them up...

### Opportunities to learn

One of the advantages of a mixed peer group is that it replicates the community from which children come. This means that 'here and now' conflicts, rivalries and attempts to abuse or control others can be used as learning opportunities. This is more effective than trying to talk to children in the abstract or making reference to the past. Several examples of these interventions described by SCH staff related to girls with a background of CSE who believed they were only of interest to others because of their sexuality and tried to replicate patterns of behaviour that would give them that attention.

#### **Alfie and Joelle**

Alfie was sentenced for a sexual offence against a girl of his own age – the incident started as consensual, but she then withdrew her consent. He wanted to form a relationship with Joelle, who was placed on welfare grounds and in a different unit. Their risk management plans specified that they should not be left alone, and their contact and conversations should be monitored. Staff tried to get them to engage in activities rather than sit and talk together. The plans were explained to both of them.

When Joelle came in, she wanted attention from male staff and boys. There were concerns that she had been sexually exploited and she saw sexual advances as people caring for and loving her. Whilst staff could see that, Alfie couldn't. He used to try to pass notes to Joelle and would hang back on the way to education hoping to see her.

When working with Alfie about risks, they didn't want to focus on his offence because he knew what he was in for and felt bad about it: further shaming would be unhelpful. They focused instead on what was appropriate in his current situation.

Work with Joelle was targeted at demonstrating that good relationships do not need to be based on sex and at developing her self-esteem. Joelle lost interest in having a relationship with Alfie as her self-esteem grew. She got to the point where she thought: 'I don't need this male's attention'.

## Restorative approaches

As well as supporting individuals to learn from their day-to-day experiences, homes described using restorative approaches to resolve difficulties between children and to give them skills for the future.

### **Martha and Jacob**

Martha and Jacob were attracted to each other and wanted to be in a relationship. At one point, Martha's wellbeing was affected because Jacob was too controlling. Before considering separating them, staff got them together and Martha explained how Jacob was making her feel: that she got anxious when he came into her personal space, she had been affected by CSE so was particularly anxious about anyone getting too close. Jacob apologised and said he hadn't realised that he made her feel like that. It was quite a shock to him and he was taken aback by how he made Martha feel: he thought his behaviour was normal. Since then he has worked hard on his intervention programme. Martha and Jacob now get on well: they 'just chat like normal teenagers and they do respect one another'.

## A collaborative approach to managing risk

This is linked to the idea that change needs to be based on collaboration with the child in managing their own risks so that they effectively become 'informed members of their own team'. This approach is not necessarily in place at the moment but was suggested by one respondent as something that needed to be adopted. It would require a culture shift, and ownership from senior management down to care staff alongside parents and community practitioners. The benefit would be that:

... young people would feel better understood, and their care needs would be met in a more precise way, and their ongoing pathway would be more obvious to them.

## 5.2 The impact of the welfare and justice mix

There was a consistent message across stakeholders that children from the welfare and justice systems are effectively – and sometimes literally – the 'same children':

To be honest, if you closed your eyes or if you didn't know about their referral route, you'd never be able to tell the difference.

### 5.2.1 Tackling stereotypes

As described in chapter 4, this perception is not shared by everyone, including the children. The fact that justice and welfare children are placed together can give rise to a

range of complaints, as described by SCH staff. There may be complaints about the fact that welfare children have not done anything wrong but are somehow being punished by being placed alongside children with convictions. This is seen as unfair, and welfare children object because they think they should be entitled to more privileges - 'not because they are scared'. This tends to settle down and then, as reported by one SCH staff member:

I don't think they notice till something goes wrong, and then they use that as argument, so if they have had an answer they don't like, they would then throw that at us 'you are treating me the same as someone who has broken the law'. But on a good day they won't even notice it or mention it.

### **5.2.2 Working across competing systems**

Some of the difficulties described arise from differences in the legal and welfare systems rather than the children themselves. Justice children may be detained for longer but they know their release date, whereas welfare children often have a shorter order but with uncertainty about whether it will be renewed. Children were reported to say:

'It's not fair. They're sentenced and they've got a release date and I'm welfare and I haven't.'

You get a lot of: 'oh, well you're welfare, at least you're only here for 3 or 6 months. I'm here for a year and a half and you're whinging about 3 or 6 months'.

Similarly, welfare children have an advantage when it comes to transition planning because there is more flexibility in allowing them to have outside visits or overnight stays in prospective placements.

SCH staff say these issues are fairly superficial, and that responding to claims of unfairness is a normal phenomenon when dealing with any children. The different contractual requirements could, however, make life more difficult for staff and this was cited as one possible reason for caring for justice and welfare children separately. YCS expectations about the time children should spend outside their room, mobility outside the home as well as having to deal with two sets of financial and planning systems could make them question whether it would be easier to change their operating model.



### 5.2.3 Recognising identity and hierarchy

A more complex issue, and one that was touched on in relation to ‘contamination’ risk in chapter 4 is the impact that the welfare and justice mix may have on the way children see their identity. Respondents pointed out that this is true wherever children are living:

So this is a youthful population and forming and breaking groups is what they're all about, it's one of the great pressures of their developmental stage, really.

These group identities could be based around ethnicity, age or developmental stage, gang-affiliation or living unit rather than legal status. If there were differences, they stemmed from the fact that the welfare children could be seen as more prone to dysregulated behaviour by the justice children, as this SCH staff member told us:

You'll get a lot of times where they go, 'Well, why are they even here? They haven't committed a crime. Get them out. They're acting like a three-year old out there and they've not even done anything'.

The other side of this coin was that some of the older justice boys became the ‘alpha males’ at the top of the pecking order, described in chapter 4. Respondents pointed out that this replicates the reality of children’s lives outside secure care and provides staff with the opportunity to work with the children on the power and identity issues that it raises. It was not as straightforward as the ‘alpha’ boys using their power to behave abusively towards others: they could be the victims of their own identity.

#### **Jaden**

‘Jaden, with a sentence for armed robbery, ... was actually separated from a girl who was here on welfare because of her influence over him. ... He would feel the need to act in a certain way to impress her. She could be quite negative in her presentations anyway. He would get drawn into that quite quickly and then his risk of, I suppose, disorder and violence and aggression, what he felt he had to do in [her] presence, was quite risky.’



## 6. The way forward

### 6.1 Reviewing the evidence

To return to the question raised by IICSA, we found no evidence that the practice of placing children for justice and welfare reasons together in SCHs increases the risk of sexual abuse. We have attempted throughout the report to explore the underlying factors that would need to be true to substantiate this concern, in relation both to the profile of the children and the ability of mixed SCHs to keep them safe.

#### 6.1.1 The same children?

We lock them up under different legislation, but they're the same kids...

A typical reaction when we asked respondents about the IICSA recommendation was to say that, whether children came in from a justice or welfare pathway, they were effectively the same children. This was supported by the following evidence, based on case examples, the experience of both national and SCH respondents and statistical data:

- quantitative data on the characteristics of the children shows that those placed in SCHs on welfare and justice grounds share many of the same complex needs, including physical and mental health problems, substance misuse, self-harm, sexual exploitation and family disruption
- within the youth justice system, SCH placements are reserved for those who are particularly vulnerable and could not safely be placed in a YOI or STC
- the majority (82%) of children referred for a placement on welfare grounds have past convictions or outstanding criminal charges
- respondents' experience was that it can be somewhat arbitrary whether children follow a justice or welfare pathway, depending in part on local practice and which system responds first
- this is supported by evidence that the same children move between different pathways, with 12% of welfare referrals having previously been in the secure estate on criminal justice grounds: although the precise figure is not known, it is also clear that many children in the youth justice system have previously been in secure care on welfare grounds
- there is no evidence to indicate that it is mainly children placed on justice grounds who present a sexual risk: estimates based on records available suggest that fewer than 1 in 5 of children placed in SCHs on justice grounds had committed a sexual offence. Whilst the number of children referred for welfare placements with past or

outstanding sexual offences was lower (4%), just under 1 in 6 (17%) were reported to have a history of sexually harmful behaviours.

- this statistical data is confirmed by case examples provided by the study SCHs, describing children from both justice and welfare pathways who presented a potential sexual risk to peers or behaved in a sexually inappropriate way within the home.

### **6.1.2 Ability of mixed SCHs to keep children safe**

There was also no quantitative or qualitative evidence to suggest that that mixed SCHs have difficulty in keeping children safe. Overall, there was a consensus amongst respondents that children are much safer within a SCH than they had been before – or were likely to be after. This was because these are small settings that enable staff to create a nurturing environment, as described by this respondent:

That's what keeps visibility and keeps children safe, because it's the relationships that often keep them safe, whereas in bigger settings, I think you lose that. You can't possibly see everything that's going on, you can't possibly monitor everything that's going on.

National stakeholders also said that SCHs compared favourably with other placements in which these children could have found themselves in. This was acknowledged within the IICSA report in relation to children within the youth justice system:

Throughout this investigation, the differences between the regimes in YOIs and STCs and those in SCHs became increasingly clear. The latter are more child centred, with better staff ratios and training requirements. These institutions are subject to similar standards of care to those applied by Ofsted to children's homes. Importantly, the environment is one in which it is potentially easier to build trusting relationships with children, where they would feel safer and more likely to disclose sexual abuse (IICSA, 2019: p.vi).

For children within the welfare system, respondents believed that the alternatives to a SCH placement were also often inadequate, as described by one national stakeholder:

We see unregulated placements, we see staff members in hotels, in caravans in three to one, four to one staffing because they can't get them into a secure bed. That's not the appropriate provision for a young person with those levels of needs.

In relation to the IICSA question specifically about the ability of mixed SCHs to keep children safe from sexual harm, evidence to suggest that this concern was not substantiated included:

- SCHs must comply with Children Act regulations requiring them to accept only children whose needs they can meet alongside children already placed within the home. As our evidence shows, this means that, in practice, they will resist taking too many children with the same needs or risks, including those with sexually harmful behaviour
- there was a consensus in our sample that SCHs have a very effective approach to risk management, including avoiding the triggers and opportunities for children to harm each other and tackling the causes of risky behaviour, whether physically, sexually or emotionally harmful
- IICSA agreed that SCHs provided a safer environment than other custodial institutions and that children placed there were more likely to report any allegations or concerns about sexual harm
- there was no quantitative or qualitative data to suggest that children in mixed SCHs were at any more risk of sexual harm from peers than those in welfare-only placements.

## 6.2 The need for an alternative model?

In the light of these findings, there would appear to be no need to consider an alternative model to mixed justice and welfare placements in order to keep children safe.

Respondents agreed, and the statistical evidence would support, that SCHs are safe places for children with complex needs, regardless of whether they take children from one or both legal pathways. Respondents also argued that, for a combination of reasons, stopping homes from providing mixed justice and welfare beds could be detrimental for children - and for the future viability of the SCH sector itself.

Firstly, welfare-only SCHs could lead to a high concentration of children with very complex needs that homes may struggle to manage. As discussed in chapter 3, homes limit the number of children they accept at any one time with, for example, severe self-harming behaviour or affected by child sexual exploitation (CSE). This would be more difficult to achieve if homes had a more restricted group of children to choose from.

Secondly, even if the separation of justice children was limited to those who have committed a sexual offence, some respondents questioned whether that would be the best way of dealing with sexually harmful behaviour:

If you put all those children under one roof, you kind of label them  
...siphoning them off from all the other children, if you like, and

saying you're special because you've got these sexual harmful behaviours and you're all under one roof. It could also bring higher risks because you've got more children with sexually harmful behaviour all under one roof, so you've got the intensity of risk.

... if you put perpetrators [of sexual abuse] in a unit together, you could guarantee they will create their own victim/perpetrator hierarchy.

Thirdly, respondents predicted that if homes could provide only one placement type, children would be placed further away from home. This would make it more difficult for families to visit children and for local services to stay connected, which would make an effective transition back into the community harder to achieve.

Fourthly, as discussed in chapter 3, children move between placement pathways, and if homes only offer one type of placement, these children would have to move or not be able to return to a home where they had previously stayed. As this respondent explained:

You're still going to have welfare kids that are involved with justice workers. You're still going to have welfare kids that are going to be awaiting sentence, like we have, and that then won't be able to stay in the same location. They'll have to move. What does that do to the kid?

Fifthly, as discussed in chapter 5, children need to develop skills that will make them better equipped to keep themselves and others safe when they leave. Having a diverse population where some of the challenges children face in the community are replicated within the homes provides learning opportunities in a safe context.

Finally, some respondents argued that more homes would probably opt for a justice-only model, as this provides more financial stability. A decrease in welfare placements would further exacerbate the current shortage of welfare beds and the number of high-risk children who are in placements that do not meet their needs (see chapter 3).

Furthermore, homes' financial viability, based on the balance of a stable but lower fee for justice beds and higher but uncertain fees for welfare beds, may be undermined. That could, in turn, lead to more closures of SCHs, a loss that a sector that is already struggling to meet demand can hardly afford.

If anything, respondents thought children would benefit from greater integration of the justice and welfare systems – and the inclusion of mental health services. As one national stakeholder said:

I think we should be bringing the Youth Justice and the welfare sector, and even the health sector ... closer together, because the one thing we know, is the groups of children in these settings have high mental health and neuro-disability and substance misuse needs. Huge trauma ...

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For any enquiries regarding this publication, contact us at:

[olivia.greenan@education.gov.uk](mailto:olivia.greenan@education.gov.uk) or [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus)

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