



Department
for Education

The Government response to the Independent Inquiry into Child Sexual Abuse's investigation report, Sexual Abuse of Children in Custodial Institutions: 2009-2017

Recommendation 2

May 2021

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Background

On 28 February 2019, the Independent Inquiry into Child Sexual Abuse's investigation report, *Sexual Abuse of Children in Custodial Institutions: 2009-2017* recommended that:

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

The Department for Education (DfE) led on this recommendation as it holds policy responsibility for secure children's homes (SCHs) in England, working closely with Ministry of Justice (MoJ) and the Youth Custody Service (YCS). Therefore, the scope of our response to the recommendation focusses on English legislation and SCHs only.

The practice of placing children on justice and welfare grounds in the same SCH is not an issue on which we have a substantial evidence base to suggest that there is a greater level of risk to children when compared to placing children in welfare or justice only SCHs. However, the government takes recommendations from the Inquiry seriously, which is why we commissioned a short piece of research to review placement practice through a mixture of research and additional analysis of internal data.

We presented the findings of the research to the Inquiry on 28 November 2019 and received helpful feedback to inform the final report. There was a delay in publishing the report and response to the recommendation due to the department's urgent response work to the coronavirus (COVID-19) pandemic.

Secure children's homes regulatory framework and safeguards

As set out in the Government's response to the recommendations on 23 July 2019¹, there is a comprehensive regulatory framework to ensure safeguards are in place to protect children placed in SCHs in England. Firstly, for welfare placements, an order from a family court is required to authorise a placement in a SCH and the time period for that placement, a decision that local authorities and the courts tell us they do not take lightly. For justice placements, the decision to remand or sentence a child to youth custody is taken by a criminal court but it is the YCS that makes the decision on which type of

¹ The [government response](https://www.gov.uk/government/publications/sexual-abuse-of-children-in-custodial-institutions-government-response) (https://www.gov.uk/government/publications/sexual-abuse-of-children-in-custodial-institutions-government-response) to the Independent Inquiry into Child Sexual Abuse's investigation report, *Sexual Abuse of Children in Custodial Institutions: 2009-2017*

provision i.e., whether a child should be placed in a SCH, secure training centre (STC) or young offender institution (YOI).

SCHs must operate in compliance with the Children's Homes (England) Regulations 2015, including the nine quality standards. This applies to all children's homes and SCHs and sets standards in meeting the individual physical, emotional, social, and educational and health needs of all the young people they accommodate. We recognise the unique and specialist nature of these SCHs and how vulnerable this group of children and young people is, which is why Ofsted inspect all SCHs twice a year in accordance with the Social Care Common Inspection Framework (SCCIF), and will do so immediately if concerns are raised. Children's homes (including SCHs) must have a protection of children policy in place and 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 concluded².

The final decision on whether to admit a child to a secure children's home rests with the registered manager of the home. The registered manager must carefully risk assess each placement, considering the individual needs of children and whether the home can meet these alongside other children already accommodated in the home. Ofsted assesses whether a home is operating in line with its Statement of Purpose during inspections. This includes how a home manages their admissions process and meets the individual needs of children in the home. Where a home is not operating in line with the regulatory requirements, Ofsted can take enforcement action, such as issuing compliance notices or, if necessary, limiting further admissions to the home.

The Regulations are clear that the registered person is responsible for leading a team which provides high quality care for all children living in the home. They must ensure that staff have the experience, qualifications and skills to meet the needs of all children, helps them aspire to fulfil their potential and promotes their welfare.

The registered manager is also responsible for building a strong safeguarding culture in the homes where children are listened to, respected and are safe. The Regulations set out that all staff should strive to develop a culture of openness and trust that encourages children in the home to be able to tell someone if they have concerns or worries about their safety. Homes should encourage children to understand they can speak to an independent advocate, Independent Reviewing Officers (IROs), Ofsted inspectors or other relevant persons if they have concerns about their safety. The registered person must ensure that the children in their care understand their rights as a looked-after child, or child living in a children's home. Independent visits to SCHs take place once a month

² [Children's social care notification guidance](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), (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)

to check that children are effectively safeguarded, and the conduct of the home promotes children's well-being.

Research methodology and findings

In September 2019, the department commissioned researchers to carry out the placement review, using quantitative and qualitative data to produce a final report. The detail of the methodology is set out in the report published alongside this response, but the key sources of evidence included:

- unpublished statistical evidence about the profile of the children referred to SCHs, serious incidents in SCHs reported to Ofsted and local data, and
- in-depth interviews with 21 staff in a range of roles in 4 out of the 5 SCHs in England that provide both justice and welfare placements, and 11 respondents from 7 national stakeholders³ selected to reflect different aspects of policy and practice.

Overall, the research found no evidence that:

- the cohorts of children in the justice and welfare systems are fundamentally different, with justice children posing a sexual risk and welfare children being the ones who are most vulnerable and at risk from their peers
- mixed justice and welfare SCHs have difficulty in keeping children safe and welfare children need to be protected by keeping them apart.

In the qualitative interviews, there was a consensus among respondents that all children in SCHs share a high level of vulnerability and that sexually harmful behaviours were common in the backgrounds of all children entering SCHs, regardless of whether they were placed on justice or welfare grounds. This was supported by analysis of internal unpublished quantitative data from the Secure Welfare Coordination Unit (SWCU) and from the Youth Justice Board (YJB) on the characteristics of the children and their presenting needs on referral. This showed 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. The majority (82%) of children referred for a placement on welfare grounds had past convictions or outstanding criminal charges and 12% had already been in the secure estate on justice grounds. There was also evidence that many children in a justice placement had previously been involved with the child welfare system, including 40% who had been looked after.

The interviews found that no respondents felt that placing justice and welfare children together increased the risk of child sexual abuse or that this placing model needed to change. The researchers did not identify any evidence to indicate that it is mainly children

³ National stakeholders included: Secure Welfare Coordination Unit; Youth Custody Service; Ofsted; Secure Accommodation Network; Association of Directors of Children Services; NHS England and Adolescent Forensic Psychiatry Special Interest Group

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.

There was also no evidence to suggest that the approach of mixing justice and welfare children affected SCHs' ability to keep them safe. The way SCHs are often designed means that risk can be carefully managed in the home, for example through separating children where necessary, or having shared spaces that are closely monitored by extensive CCTV and personal supervision by care staff. When combined with the additional operational requirements on SCHs under the regulations and quality standards this provides for robust safeguarding arrangements that the Inquiry themselves have highlighted – “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)⁴. This was supported by quantitative data which found no evidence of an increased incidence of sexual abuse in mixed SCHs.

There are of course limitations and parameters to the research: due to the timeframe of the review, the researchers were unable to interview children in SCHs as the consent and ethical protocols for their inclusion would have required substantially more time than was available. The findings therefore rely on the expert views of staff in SCHs and other key stakeholders, alongside the available quantitative data. Furthermore, 8 out of the 13 homes in England only accommodate one route of placement i.e. justice or welfare, and do not mix children. However, we understand this is for operational reasons rather than concerns about children's safety which is why, given the focus of the study, researchers concentrated on mixed SCHs as this would provide the most relevant data. The department explained these limitations to the Inquiry and they are also set out in the published report.

⁴ Executive Summary, [IICSA Sexual Abuse of Children in Custodial Institutions: 2009-2017 Investigation Report](https://www.iicsa.org.uk/publications/investigation/custodial/executive-summary) (https://www.iicsa.org.uk/publications/investigation/custodial/executive-summary)

Conclusion

In light of the research findings, the government is of the view that the practice of placing children in mixed justice and welfare homes does not create or exacerbate systemic risk and is therefore not proposing to explore alternative models. There is no conclusive evidence to show that there is an increased risk of sexual abuse to children as a result of being placed in a mixed SCH, and the government is of the view that there are robust safeguarding measures in place to protect children from harm. Ofsted judgements show that SCHs generally provide a higher quality of care than other youth justice secure settings, as recognised by the Children's Commissioner⁵, and government's ambition for the youth secure estate is that all children are accommodated in smaller units that provide child-focussed integrated services.

The report supports our understanding that children placed in SCHs on justice and welfare grounds not only have similar needs but are sometimes the exact same children who move between the different legal pathways. This is a view shared by the Children's Commissioner in her recent annual report 'Who are they? Where are they? 2020':

"...although children may be locked up in different institutions, under different laws, they often have very similar needs. At first glance children in prison have committed crimes, those in mental health wards have mental health needs and children in care have grown up in difficult family circumstances. But in reality, the child who ends up in a secure children's home may have been drawn into crime; the child in a prison may well have had mental health problems; and the child in a mental health ward may have a difficult home life"

The placement review report shows there are even benefits in placing these children together. For example, a mixed peer group replicates the community from which children come which means that conflicts or potentially exploitative behaviour can be used by staff as learning opportunities in a risk-managed environment. SCHs use restorative approaches to resolve difficulties between children and give them skills for the future.

Respondents were in favour of an increased level of integration between the justice and welfare systems, as well as mental health services, so that these cohorts can be considered as one group of complex children and services can be better commissioned to meet need. We are already working closely across government to ensure that we are aligned on key issues relevant to the broader children's secure estate, including youth custody and mental health provision. This includes considering the needs and characteristics of young people across the estate and how provision can better meet the needs of young people entering the system.

⁵ [Children's Commissioner, 'Who are they? Where are they? 2020'](https://www.childrenscommissioner.gov.uk/report/who-are-they-where-are-they-2020/)
(<https://www.childrenscommissioner.gov.uk/report/who-are-they-where-are-they-2020/>)

The government will provide £24 million in 2021-22 to start a new programme to maintain capacity and expand provision in SCHs. This will provide high quality, safe homes for some of our most vulnerable children and will mean children can live closer to their families and support networks, in settings that meet their needs. This is the most significant one-year investment in the SCH estate in the last 10 years and we will set out further details in due course.

The Independent Review of Children's Social Care, led by Josh MacAlister, was launched on 1st March 2021. This is a fundamental part of the Government's commitment to levelling up across the country. The review will be bold and broad, taking a fundamental look at what is needed to make a real difference to the needs, experiences and outcomes of the children supported by children's social care including those in SCHs. The Secretary of State asked Josh MacAlister, the founder and Chief Executive of Frontline, to lead the review. From his work at Frontline, Josh brings both an understanding of the challenges facing the system and experience of developing and implementing innovative solutions. The review will be evidenced based and bring together a broad range of expertise. So far, Josh has been prioritising listening to the voices of children, young people and adults that have received the help or support of a social worker, or who have been looked after. The Review is supported by an Experts by Experience Board, who are advising the reviewer on how to bring the voices of people with experience of the system into the Review and are helping the team to deliver a comprehensive calendar of engagement events with the public. Alongside the Experts by Experience Board, there are two advisory groups helping to shape and inform the Review's design and the evidence that is gathered and used throughout the process.

In conclusion, we do not believe the evidence supports the need to change placement practice at this time. We hope the Inquiry will be reassured that we have plans in place to keep this under review and are considering the broader sectoral issues through ongoing development of policy in relation to the secure estate. We will seek to maximise opportunities to listen to children's views on SCH policy through our relationships with the network of SCHs, the Children's Commissioner Help at Hand, Ofsted, children's rights charities, and other advocacy routes.



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