

National Independent Care Review: Response from CYCJ

Question 1: The vision for Scotland

To achieve lasting improvement to care experienced children and young people's outcomes, we need first to define what this looks like. The Review will recognise and build on good practice already happening, 'what works' and what issues need to be better understood. We also wish to consider what the guiding principles to the vision might be and what evidence and experience tell us is necessary to achieve it. These are just examples – if you want to share other points in your answer, please feel free to do that.

What would the best care system in Scotland look like for you? This will define the vision for the Review.

We welcome the recognition that the care system is not broken but that we must improve care for children by building on good practice and drawing upon research relating to enhancing care standards. The Centre for Youth & Criminal Justice (CYCJ) believe that the best care system possible would be one that continuously asks itself; *"is this good enough for my own child?"* Features of such a system would be myriad and extensive, but include the following components:

- Community based supports and interventions that assist children and families to remain united if that is in the best interests of the young person in question. These supports ought to equip families and carers with the necessary skills to meet the needs of the child, with supports in place to assist the adults to deal with any personal difficulties they may be experiencing.
- Loving and supportive placements, where children and young people benefit from high quality, sincere human relationships which support them through times of triumph and tribulation. These relationships would endure after the young person has moved on, if indeed the young person elects to move on. This requires workers to be empowered and enabled - both physically and emotionally - to do so, benefitting from an environment that places trust upon parents and carers. Supports, including financial assistance, ought to be put in place that enables young people to remain within foster placements for as long as they and their carers wish, maintaining positive relationships whenever possible.
- A workforce that is cared for by those in managerial roles, benefiting from professional training that equips staff to acquire highly specialist knowledge and skills that afford the flexibility to respond to a range of complex needs and presentations, rather than using any single evidence-based treatment. Residential childcare staff should be trained to specialist level in keys areas of competency including attachment, trauma, child development and in improving the mental wellbeing of children. Such a scenario would be guarded by access to ongoing, meaningful supervision.
- Flexible and proactive placements that support children and young people in their care to maintain positive relationships with friends, family and communities. Supporting staff to develop the best possible assessment of a child, and what placement would best meet their needs, is something that should be considered during this process.
- Individualised approaches tailored to individual need; this requires a fine balance of providing 'specialist' services, as well as more 'generic' ones. Regardless of the fine details of doing so, children deserve to be provided with care that fully meets their needs and allows them to flourish. Likewise, parents should be assisted to develop the requisite skills to look after and care for their child.

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- Gradual, planned transitions - for those who are accommodated - from one placement to the next, and at a time that is best suited to each young person
- An ethos that ensures children are not criminalised due to their traumatised behaviours, with a staff development plan in place that equips them with a wide range of strategies and supports to ensure police contact is used as an option of last resort.
- Equal access to services and opportunities within a system that takes into consideration the particular needs and features of young people who have experienced the care system. Included in this would be a positive, proactive drive by corporate parents to support young people into employment, training, suitable accommodation and to equip them to live independent, fulfilling lives.
- Recognition from all parts of the care system that the manner in which the workforce is treated ought to mirror that of children in the care system. The workforce needs to be cared for so it can care for our children and to be provided with adequate support, training and opportunities to provide the care and environment young people need. If we fail to achieve this, outcomes for young people will not be improved.
- Recognition of the importance of all parts of the continuum of care, with a system that values all children equally, regardless of placement type and specific needs. It is critical that we avoid statements such as “many children are in care through no fault of their own” and instead acknowledge the similar background, experience and adversities experienced by children in care, regardless of what ultimately led to the child being placed away from birth families. Such messages are dangerous, creating a notion of more and less deserving children. Children are children regardless of the behaviours they may have displayed. Returning to - and underlining - the notion of supporting children based on their needs and not deeds would be a prominent feature of the best possible care system.
- A drive towards being outcome focused and being a learning and improvement system that provides opportunities to share and celebrate good practice and learning. The care system should bring together the voices and experiences of young people, workforce, families and carers, researchers, and policy makers in order to improve standards, knowledge, practice and outcomes.
- Families, carers and practitioners whose interaction with children were informed by theory, research and knowledge from broad but relevant aspects of childcare. This would be supported by robust, flexible, world class and accessible training.
- Effective integration and linked to the services and systems that it exists within and around the care system, drawing on the supports available from voluntary organisations, charities, private sector, national bodies and local authorities.
- Communities that are actively interested in seeking and listening to the views of young people, acting on these views where appropriate and providing a dialogue between those in a position of power and young people.

Question 2: Scope of the Review

In order to achieve its vision, the Review will identify what needs to happen (and where) to be successful: enabling children and young people's outcomes to be the best they can be. Your views might relate to stages in (or all of) the care journey, or to (parts of, or all of) the system itself. Your answer might be specific or broad. Please feel free to include anything that you think needs to be considered.

In your opinion, what do you think an independent, root and branch review of the care system should include?

CYCJ believe that the review should include all of the areas noted above, as they are all essential to consider when creating the best care system possible. It is important that the review defines which parts of the care system it is examining; looked after at home; foster care; residential childcare and secure care etc. Yet these more intensive and substantial responses to children in need ought to be accompanied by examining the processes and resources relating to early years intervention, preventative work, responses to cases of neglect and diversion away from criminal justice system. Scrutinising *all* stages of the journey through the care system is therefore essential, whilst actively looking to include care leavers' experiences to help understand how outcomes could be improved.

It is important to pay particular attention to care experienced people who do not readily identify with the 'care' label. Research undertaken by CYCJ within HMYOI Polmont learned that despite having clear experience of care, many young men there were frequently unaware of being care experienced, so lacked an understanding of their associated entitlements. It is important that the voices and experiences of those who fall into this category are also included; this will require specific and dedicated attention.

On a similar theme, CYCJ believe that maintaining a robust, functional yet privacy sensitive dataset of our most vulnerable young people would best assist practitioners and policy makers to shape the future services and provision in this field.

The views and opinions of the parents whose children are or have been involved in the care system should be considered. There may be guidance, ideas and suggestions from this group that would inform those undertaking this review and those seeking to support families.

It is also important that attention is given to the experiences and knowledge of the workforce. Very often workers on the ground have an insight into issues that are not entirely reflected by senior management nor brought to the attention of the academic world; this review ought to give those supporting children the opportunity to highlight concerns and to identify solutions.

Care provided to children is closely associated with and reliant upon the Children's Hearing System which has many strengths and is a vehicle through which children ought to be provided with support in a holistic, non-legal and expedient manner. There have been changes to this system in recent years that have hampered the smooth running of this forum, with some legal representatives behaving in a manner that obstructs the due process of the Hearing and contributing to an adversarial atmosphere. It must remain paramount that children are listened to within this forum, with measures in place to encourage all parties to ensure that this happens. Reviewing these aspects of the care system is therefore something that CYCJ believes should be a priority within this review.

The availability, efficacy and suitability of placements that can support the most vulnerable young people is another area that demands the attention of those wishing to create the best possible care system. Far too often, young people are placed within settings that neither meet the needs of that young person nor is set up to offer anything else more than containment. Due to lack of capacity, young people who are experiencing significant levels of distress and are in need of the most support are often provided with insufficient resources, including being placed within bed and breakfast accommodation when suitable provision is not made available.

CYCJ believe that building capacity of those seeking to support children is essential and that current levels of training and education could be improved. This review should consider steps that could be taken to improve the skills and abilities of social workers, teachers, foster carers, health staff, residential staff and youth workers, amongst others. This review could consider the quality of training and education provided to those seeking to work alongside children, and whether or not these provisions are fit for purpose. At the same time, providing parents and families with access to support and guidance that assists them to care for their children in the best possible way would contribute to Scotland being the best place to grow up. This could be by way of parenting groups, enhanced parent and toddler provision and specialist training with respect to particular health needs of their child.

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Whilst CYCJ are heartened that the minimum age of criminal responsibility shall soon be raised, we are disappointed that this is only to the age of 12. CYCJ believe that this ought to be considered, along with the significant risk of young people who are looked after and accommodated accruing charges within their placements. These children, having encountered significant degrees of trauma, display behaviours that may lead to them coming to the attention of police colleagues. CYCJ are concerned that this may escalate and accelerate a young person's entry into the criminal justice system, and that this review ought to consider the responses to such behaviour by residential staff. CYCJ have produced research specifically on this point and believe that this review may wish to consider this piece of work in the months ahead.

Scottish society prides itself on the Kilbrandon principles and the Children's Hearing System, yet still has more children and young people aged 16 to 18 on remand or in prison settings than in secure care. As well as managing the risks posed by these children, a response that supports them to maximise their life chances and minimise the likelihood of them re-offending is needed. CYCJ therefore suggest that consideration should be given to the use of secure care rather than prison or a Young Offender Institution.

CYCJ believe that this review should examine the legislation and policy surrounding the detention of young people, strengthening use of community based responses to high risk of harm situations, such as the Movement and Restriction Conditions and intensive supports. These supports could be utilised in lieu of remand or prison sentences, and whilst legislative changes may be necessary to forward this aim, such a task should not be shied away from.

To further support a focus on the child we suggest that for all under 18 year olds there should be the presumption that their case would be dealt with by the Children's Hearing System. The ultimate aim should be that no child under 18 should be prosecuted in Courts where children are unable to understand the language and processes, there is a risk of re-traumatising and the focus is not a welfare based system which takes account of their needs as well as their deeds. The review may wish to consider this aspect of our legal system, whilst considering how best to conform to international obligations through the United Nations Convention on Rights of the Child and associated legislation.

Given the disproportionate number of children within the care system who experience poor mental wellbeing, this review must consider the provision of care in this regard. Existing CAMHS design is something that ought to be considered, whilst the development of a more embedded, holistic approach to promoting positive mental wellbeing would be of benefit to young people within the care system. This approach would include drawing on the resources and skills of teachers, residential staff, sports coaches and families.

Where young people are identified as being on the edge of offending, our Whole System Approach needs to understand their behaviour as responses to trauma, adversity and an expression of needs. Scotland currently aims to identify low level offending early and respond to behaviour in ways that challenge the concerns, but should ensure this is always done through a supportive lens that avoids labelling children as 'criminal', thus encouraging further disengagement and a sense of hopelessness.

CYCJ believes that education is one of the most significant aspects of a young person's life, with myriad, manifest benefits. When a young person displays concerning behaviours, the best care system possible would be one which strives to maximise school inclusion. The more we can keep children - including and *especially* children whose behaviour is challenging - in school wherever possible, the better. Schools have a vital role to play in terms of positive intervention and support, replete with training and support to teachers to better understand and address trauma and challenging behaviour. The review may wish to reflect on the clear benefits of specialist services within schools, such as nurture rooms and school inclusion units for those struggling in a classroom setting.

The introduction of the Whole Systems Approach led to many changes in the manner in which services deal with young people involved in offending behaviour, whilst creating processes that could meet their needs and address

risk. CYCJ are of the view that there is an argument to extend this model to people up to age 21, or beyond, noting the number of European countries who treat all young people in their early 20s as juveniles.

The best care system in the world would be one which strives to achieve the standards set out in national care standards and similar guidelines, and which undertakes monitoring or practice to ensure that this does indeed transpire.

Question 3 - The wider context

It is so important that the Review aligns with other initiatives and draws on previous and forthcoming work. To help ensure that the Review fully achieves this, please tell us if there is something that you think we should know about. Don't assume we will know about it already, we would rather hear about these things many times, than miss something important.

Relevant things that are going to happen in relation to children and young people (or have recently happened) in Scotland:

Minimum Age of Criminal Responsibility Bill proposes raising of the age of criminality to 12, thus treating children in a more considered manner, however this step is not great enough to address the significant impact made when young people have been charged with an offence.

CYCJ welcomes the recent creation of the Secure Care Strategic Board, to lead the development of a strategic approach to responses to children and young people in and on the edges of secure care in Scotland. Linking with this body will be important, particularly as those who are placed within secure care are Scotland's most vulnerable and may place others at risk. Information regarding the need for robust, efficient secure care can be [found here](#).

Implementation of the Children and Young People (Scotland) Act continues. Even in those sections which have been enacted such as parts 10 and 11, there is still a long way to go to make implementation a reality, which work such as that of the Scottish Care Leavers Covenant aims to support. The implementation of parts 4 and 5 are forthcoming relevant activities.

Whilst at an early stage, the review may wish to take cognisance of - and contribute to - the consultation taking place regarding the establishment of sentencing guidelines for Scotland. This may have an impact upon the manner in which young people are dealt with by Courts, and the consequences that this would have upon custodial and secure estates. More information is [available here](#).

CYCJ are undertaking an improvement project entitled 'Responding to Offending in Residential Childcare - Next Steps.' 'Next Steps' is a collaborative project, where CYCJ and STAF will work alongside a number of organisations to explore and support the implementation of the findings of the research into the decision making of practitioners and the criminalisation of looked after children in residential care.

The project will adopt an approach which recognises the role of participants as experts in their own organisations; how the organisation works; the young people they are working with; and how gaps and good practice can be identified, and as active participants who will take ownership for driving forward change. The role of CYCJ will be as supporters in this journey of change and in documenting the process and learning from this, rather than leading on the work. The learning gained from this piece of work may be of benefit to the care review in order to create a residential estate that is well equipped to care of young people.

Reflecting the scale and magnitude of bereavement experienced by young people within the custodial setting, the review may wish to consider what systematic responses could be made to address this issue. More information can be [found here](#), from page 26 onwards.

A 10 year strategy for supporting those with mental health challenges has clear relevance here, with overlap with both the children in need of care but also the parents, carers and families of these children. More information can be [found here](#).

When considering the skills and knowledge required by those caring for children, the review may wish to reflect on recent NHS guidance, [found here](#).

On a similar note, the work carried out by CYCJ's Intervention for Vulnerable Youth (IVY) project has much relevant to children who are involved in the care system. The lessons learned from undertaking assessment and intervention in this field would assist the care review to consider the needs of those who experience or pose significant level of risk.

Relevant things that are happening elsewhere in relation to children and young people:

In England, the Transition to Adulthood Alliance have carried out various pieces of research regarding the factors that affect the rate and time at which young people develop full maturity. Considering [their findings](#) would be beneficial for those carrying out the review, particularly with consideration of the criminalisation of young people involved in the care system.

When considering the design and nature of residential, trauma informed provision it may be worthwhile examining the work undertaken by Dr Dan Johnson during his visit to the United States of America and Scandinavia – [available here](#).

Relevant documents and sources of information that we should know about in relation to children and young people, including for example, practice, policy and research:

CYCJ have carried out numerous pieces of research that would be of interest to those undertaking this review. Amongst these are our 'key messages' drawn from the past three years of work in this field – [available here](#).

CYCJ hopes that consideration will be given to the role and efficacy of secure care. As such, we highlight the undernoted pieces of work:

<http://www.cycj.org.uk/resource/chief-social-work-officers-and-secure-care/>
<http://www.cycj.org.uk/resource/secure-care-in-scotland-looking-ahead-2/>

Noting that young people who are looked after within residential care are more likely to come to the attention of police bodies, this [piece of research](#) may assist the care review to consider the best steps to take in order to address this inequality.

CYCJ has previously published documentation regarding the recent developments in the Children's Hearing System. This can be [found here](#).