

Mind the Gap: Factors that can support responses to offending in residential child care and the challenges of implementation

Deborah Nolan and Joe Gibb

Abstract

Responding to offending in residential child care is inherently complex (Moodie & Nolan, 2016). There has been longstanding concern about the overrepresentation of care leavers in the criminal justice system and the fact that the behaviours of care experienced children are more likely to come to the attention of the police and to attract a criminalising response (Scottish Government, 2018; Scottish Care Leavers Covenant, 2015). Work completed by the Centre for Youth and Criminal Justice (CYCJ) and Staf (Scottish Throughcare and Aftercare Forum) over the past two years has highlighted a range of factors which can support good quality, consistent and confident decision making, towards the aim of ensuring that police contact is avoided unless absolutely necessary. These factors include relationships, multi-agency working, the adoption of a joined-up approach, agreed principles to inform practice, a positive organisational culture and ethos, caring for the carers, and data. While these findings present a range of opportunities, the challenges to implementation are clear. Acknowledgement of these challenges, as well as a plan of action on how to overcome them, is necessary if children are to benefit from a more positive care experience. We also need to address the systemic issues that contribute to police contact in the first place.

Keywords

Residential child care, responses to offending, complexity, support

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Introduction

Building on research undertaken in 2016, as detailed in 'Between a Rock and a Hard Place': Responses to Offending in Residential Child Care (Moodie & Nolan, 2016) and The Duality of the Corporate Parenting Role: A Delicate Balancing Act (Moodie & Nolan, 2017), for the last year the Centre for Youth and Criminal Justice (CYCJ) has partnered with Staf (Scottish Throughcare and Aftercare Forum) on the Responding to Offending in Residential Childcare - Next Steps project (Nolan & Moodie, 2018). This project has focused on supporting the implementation of the findings of the above research in practice, and on embedding this learning at local and national levels towards the ultimate aim of improving outcomes for looked after children (Nolan & Moodie, 2018). The project has involved influencing and developing an understanding of local practice, through adopting an improvement methodology with four children's houses from two local authorities and one third sector organisation in Scotland (Nolan & Moodie, 2018). This has been supplemented with individual and collective discussions and reflection with national organisations such as Police Scotland, the Care Inspectorate, Community Justice Scotland, COSLA (Convention of Scottish Local Authorities) and Social Work Scotland (Nolan & Moodie, 2018). In addition to the learning gained from this project, there has been significant interest in this topic since 2016 and we have engaged with several hundred workers, including residential child care workers, police officers, social workers, third sector workers, managers, advocates, education staff and care experienced young people.

This paper will synthesise the learning gained from the above work by highlighting what supports good quality decision making in responding to offending behaviour in residential child care. This will be followed by the response to the findings of this work by Joe Gibb, an experienced residential child care worker, who will highlight how this learning could be utilised in practice and some of the challenges to implementation.

Still between a rock and a hard place

The majority of looked after children do not come to the attention of the police, and when they do this can be for a range of reasons including missing persons reports, victimisation, and offending (Moodie & Nolan, 2016). Nonetheless, there has been longstanding concern regarding the criminalisation of looked after children, particularly those in residential child care (Moodie & Nolan, 2016; The Howard League, 2016). Research consistently highlights that care leavers are more likely to be involved with the criminal justice system (Scottish Care Leavers Covenant, 2015) and the behaviours of children with care experience (especially those looked after away from home) 'are more likely to have been reported to police – and therefore to attract a criminalising state response – than Scotland's child population in general' (Scottish Government, 2018, p.10).

As detailed in our previous work, responding to offending behaviour is inherently complex, influenced by a multitude of factors and involving the reconciling of a range of dilemmas and tensions, necessitating professional judgment to provide individualised responses (Moodie & Nolan, 2016; 2017). However, various factors have been highlighted which can support good quality, robust, consistent, considered and confident decision making in responding to offending behaviour, towards the aim of ensuring that police contact is avoided unless absolutely necessary. This aim is driven by the recognised significant impacts that responses to offending can have on children's future outcomes, including the detrimental impact of premature involvement with formal systems and the justice system on offending behaviour, as found in the Edinburgh Study of Youth Transitions and Crime (McAra & McVie, 2010), and on life chances and opportunities resulting from the need to disclose childhood criminal records (Nolan, 2018a; Moodie & Nolan, 2016).

Factors that support better responses to offending in residential child care

In navigating the range of tensions and dilemmas involved in responding to offending in residential child care, and in promoting robust, considered and

confident decision making, a range of factors have been highlighted, each of which will now be explored.

Relationships

Relationships are the golden thread of good practice, and significant attention has been devoted to relationship-based practice (The Care Inquiry, 2013). Our work has again echoed this, with the importance of relationships in responding to offending in residential child care clear. This includes relationships with residential staff, the children in care and their families, police, social work, health, and education, as well as between practitioners and their managers (Moodie & Nolan, 2016; Nolan & Moodie, 2018). Moreover, we would echo the conclusion of The Howard League (2017, p.1) that 'multi-agency working is essential to put in place the structures and support needed to address factors leading to the criminalisation of children in residential care', which must involve all corporate parents.

Utmost importance has been accredited to the relationships between residential workers and the children in their care. These relationships are regarded as critical in preventing and defusing situations, and require that staff know the child in question, know their history and their behaviours and what works for them individually, and also know when it would be better for another staff member to intervene (Moodie & Nolan, 2016). The police have also been recognised as a key partner, with residential staff citing positive relationships as critical in sharing information, preventing crises and gaining advice, guidance and support. Having a single point of contact within local police for children's houses is useful, although the availability of this provision has often varied in the face of competing demands and resource constraints (Moodie & Nolan, 2016; Nolan & Moodie, 2018). It is important that such support continues, but as discussed below, this should not result in unnecessary interactions between the police and children within the house (The Howard League, 2017).

In terms of relationships between young people and the police, the difficulties which are often apparent in these relationships have been highlighted in both our own research and in that of others (for example *Who Cares? Scotland*, 2018). This has often resulted in efforts to encourage greater contact between the police and looked after children, including through informal visits to children's houses. While such strategies have often been positively commented upon, including in our own research, there is increasing debate in the literature about the potential risks associated with children having unnecessary contact with the police, including drawing young people into further contact with the justice system, labelling and stigmatising (thereby creating a self-fulfilling prophecy), and normalising police interactions that would not occur in non-care settings (McAra & McVie, 2010; The Howard League, 2017). It is acknowledged that there is a complex balance between avoiding these risks and improving relationships between the police and children, with the Howard League (2017) concluding that the best outcome for a child living in a children's home is to not have any contact with the police at all. As with all matters, it is critically important that we hear young people's views on such police contact.

The relationship with social work, who usually retain the role of lead professional for children in residential child care, is also important, given their responsibilities for planning, decision making, encouraging partnership working, and sharing and receiving information (CYCJ, 2017). Residential workers have reported that it is important to be and to feel included and listened to as part of the team around the child (Nolan & Moodie, 2018). This does not always appear to be the case, resulting in feelings of hopelessness that there is little staff can do to influence decisions and anxieties about what could happen to the young person (Nolan & Moodie, 2018). Our work would also suggest that there may be some partners with whom further efforts are needed to secure their full engagement in working with looked after children involved in offending, namely education and health, and in particular mental health services. As a result, we conclude that formal and informal methods of building and sustaining relationships, bringing partners together and enabling communication, as well as relationship-based practice, should be given priority (Moodie & Nolan, 2016).

A joined-up approach

A joined-up approach has been identified as important in supporting relationships and partnership working. A key aspect of a joined-up approach is each agency having a clear and agreed understanding of their own role and responsibilities in responding to offending behaviour, which can be shared with other agencies (Nolan & Moodie, 2018). This is critical in order to develop a consistent and mutual understanding of what each agency can do, the limitations of their role, how these differ across agencies and what they can expect from each other (Nolan & Moodie, 2018). Other important components of a joined-up approach include: shared understanding across agencies about the needs and experiences of looked after children; the impact of these experiences on young people; the impact of responses; the purpose of residential child care and what individual houses and placements are trying to achieve; and the impact of criminalisation (Nolan & Moodie, 2018).

A range of strategies have been highlighted as useful in achieving this and in addressing some of the tensions which appear to arise when the above components are missing. These strategies include joint training; sharing of information and knowledge from each other's areas of expertise; ongoing communication; and developing opportunities to bring agencies together in a safe and enabling space to discuss in practice what is working well, what could be improved and how this could be achieved (Nolan & Moodie, 2018).

Policies, protocols and principles

Debate has arisen in our work regarding the place of policies and protocols to guide and inform staff practice in responding to offending behaviour. Our initial study found a lack of clarity from practitioners regarding the existence of such internal policies, but more fundamentally there was consensus that policies could only go so far in influencing practitioner responses. There was also agreement that, whether in existence or not, decision making should be individualised,

depending on the circumstances of the incident, and should be a matter of professional judgement (Moodie & Nolan, 2016).

In our later work, interest has been expressed in developing procedural guidance in respect of police contact to promote consistency of approaches and to support the use of discretion, for example in respect of the safe disposal of drugs (Nolan & Moodie, 2018). Other research has found that multi-agency protocols can be useful, with a National Protocol on Reducing Criminalisation of Looked after Children currently being developed by the Department for Education (The Howard League, 2017). Our work would suggest that rather than having a protocol, it may be more useful to have an agreed multi-agency set of goals and agreed principles to inform practice. Drawing on the work of the Howard League (2017) such principles may include that police contact is the option of last resort; that no child is unnecessarily criminalised; that any decision to contact the police is made in a thoughtful and considered manner; that efforts are made to understand behaviour; that diversionary and de-escalation measures and restorative approaches are used where possible; and that those children who are criminalised are supported through the justice process.

Organisational culture and ethos

Organisational culture and ethos has been highlighted as being of critical importance in effecting day-to-day decision making. It has been suggested that the culture and ethos of organisations should be positive, shared, well understood, supportive, respectful and child-centred (Moodie & Nolan, 2016). Moreover, children should be provided with a caring, safe, calm, nurturing, loving and therapeutic environment to achieve their potential, where police contact is the option of last resort and corporate parenting duties fulfilled (Moodie & Nolan, 2016).

Coupled with this, residential staff should be supported and empowered by their managers and organisations to make decisions, whilst being able to draw on a wide range of formal and informal managerial and peer supports (Moodie &

Nolan, 2016). In achieving this, important factors include: clear, consistent and streamlined communication; modelling by managers; and having a good team, with clear boundaries, structures and routines, including clear expectations of responses to certain offences (Nolan & Moodie, 2018). Moreover, the ability to access external support as needed, such as on call services, team meetings, debriefing, incident monitoring and supervision were additional identified factors (Nolan & Moodie, 2018). We have, however, found that the presence of such supports, and how they are experienced, varies. This includes supports in respect of very serious and/or violent offences, which can leave staff with a level of unresolved trauma, affecting not just staff members' practice but also their overall welfare and wellbeing (Nolan & Moodie, 2018). It is important that staff feel listened to regarding the impact of organisational issues such as staffing (Nolan & Moodie, 2018). We must ensure that our carers are cared for, that their needs are met, and their rights are prioritised if they are to be able to effectively care for the children they are looking after on our behalf. A further means of demonstrating such care and worth is through the investment in, and the prioritisation of, staff training, professional development, and high quality induction to equip staff with the knowledge, understanding, tools and skills required to understand and meet the needs of all the children in their care (Moodie & Nolan, 2016).

Data

While our 2016 study went some way towards filling the gap in data on offending by looked after children in Scotland, through raising concerns about the prevalence of police contact, the types of offences resulting in such contact, and the challenges of data collection, we still lack single and multi-agency, locally and nationally collected consistent data (Nolan & Moodie, 2018). In the absence of such information, we often rely on anecdotal evidence or retrospective studies, for example, although 0.5% of the general population have been in care (Who Cares? Scotland, 2018), of those who responded to the 2015 Scottish Prison Service Prisoner Survey, 33% of the young offender institution population and 31% of the adult prison population reported having

been in care as a child (Broderick & Cairney, 2015). As a result of this lack of data, we do not have access to accurate information regarding the extent to which looked after children are criminalised, how this may vary, for example by gender or placement type, offending prior to entering residential care, trends and patterns, outcomes, and areas of good practice or practice issues (Moodie & Nolan, 2016; Nolan, 2018b). In the absence of such data, the issues detailed above will be inherently difficult to tackle.

Practice implications and the challenges to implementation

It is recognised that understanding the practice implications of research and improvement projects, such as those which have been outlined in this piece, can be difficult. There can be various challenges to implementation, which are often most apparent to children and workers, those who are closest to direct practice. As a result, in this piece the decision was made to partner with an experienced residential child care worker to capture these unique insights and understanding in this paper. The following section captures his voice.

There will never be a silver bullet that can remove complexity from residential child care practice, including in responding to offending behaviour. However, the above areas have been highlighted as potentially being supportive, and indeed echo many of the recognised key components of good practice and quality residential child care – caring for the carer, good recruitment and induction processes, highly trained practitioners, learning and reflection embedded at all levels, well planned placements, partnership working, and well-resourced services (see for example Skinner, 1992; Maier, 2006; Horwath, 2000; Smith, 2009; Bayes, 2009).

Moreover, the above findings could be used within the residential setting to help frame and shape practice. The findings could be particularly useful if utilised to encourage individual and organisational discussion and critical reflection, for example during individual practitioner study, formal supervision, and team meetings. Additionally, there is scope for the findings to be used during multi-

agency learning events in the hope of improving the whole system responses to children involved in offending behaviour.

However, we cannot ignore the challenges to the implementation of these findings in practice, including the role of wider systemic factors. We still have a care system within which young people often arrive in crisis through admissions on an unplanned basis, where the perception of residential child care as an option of 'last resort' remains, and with instability and impermanence arguably inbuilt within the system (Nolan, 2018b). Moreover, there remains a continuing fight between the different professions within the human services who are jostling for position, with historical challenges associated with status, oppression and stifled creativity of the residential child care workforce that have yet to be addressed (Archer, 2002; Bayes, 2009). Furthermore, the system and the staff within it continue to function within a blame culture, where justifying and defending practice as opposed to learning is often prioritised. It could be argued that until the workforce begins to feel cared for via proper resourcing and support, police involvement within the residential setting will happen more frequently than it should (Moodie & Nolan, 2018).

It is critical that collectively we take an uncomfortable look at the barriers preventing young people from experiencing a more positive care experience, and the system's issues that lead to police involvement in the first place. It is also essential that we examine the barriers stifling the implementation of what we know works, and ensure the implementation of recommendations from previous reviews (for example from National Residential Child Care Initiative) are not lost. The Independent Care review may provide the opportunity to do so and continues to gather pace with an enthusiastic sense of optimism that change will happen for the better. This review, together with the Scottish Government's National Abuse Inquiry, will have implications for practice.

CYCJ and Staf continue to work on the above issues, supporting local practice and exploring how the implementation of these findings can be supported at a national level. We will continue to promote the factors which can support good

quality, consistent and confident decision making and better responses to offending, including: relationships; multi-agency working; the adoption of a joined-up approach; agreed principles to inform practice; a positive organisational culture and ethos; caring for the carers; and data. If you would like more information or to stay updated on this work, please contact the corresponding author.

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