



# **Surviving incarceration: the pathways of looked after and non-looked after children into, through and out of custody**

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## Acknowledgments

The research described in this report was fully funded by the Nuffield Foundation. The Nuffield Foundation is an independent charitable trust with a mission to advance social well-being. It funds research that informs social policy, primarily in Education, Welfare, and Justice. It also funds student programmes that provide opportunities for young people to develop skills in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Nuffield Council on Bioethics and the Ada Lovelace Institute. The Foundation has funded this project, but the views expressed are those of the authors and not necessarily the Foundation. Visit [www.nuffieldfoundation.org](http://www.nuffieldfoundation.org).

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The research team is grateful to the South and West Yorkshire Resettlement Consortium who provided a range of quantitative data on children who experienced custody in the consortium area and facilitated access to research participants.

We would particularly like to thank the staff and children who gave up their time to take part in interviews and share their views and experiences.

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## Executive summary

### Background and context

It is well documented that children in care – those looked-after by the local authority – are over-represented in the youth justice system.<sup>1</sup> In recent years, the relationship between care and crime has begun to receive increasing academic and policy attention, culminating, in 2018, in the government publishing a national protocol to reduce unnecessary criminalisation of children in care and improve the criminal justice responses when they do enter the youth justice system.

The use of child imprisonment has fallen dramatically over the past decade, but the experiences of children confined in the secure estate has worsened, leading to widespread acknowledgement that the incarceration of children is damaging and counterproductive and that existing provision is not fit for purpose. Looked-after children who come into contact with the justice system are seven times more likely to be detained than their non-care equivalents, but little is known about the factors leading to such over-representation or the differential experiences of children in care while in detention. This report bridges that evidence gap by considering the relationship between care and imprisonment. The research on which it draws, across the nine local authorities in the South and West Yorkshire Resettlement Consortium (SWYC) area, explored the pathways of looked-after children into, through and out of the custodial estate. A comparative approach allowed the identification of the extent to which those pathways differ for children in care and those who are not.

### Methods

The study used a mixed methods research strategy that combined:

- Analysis of quantitative data on children sentenced to custody between 2014 and 2018 in the SWYRC area;
- One-to-one semi-structured interviews with 48 children who were either in custody or had been released within the preceding twelve months;
- Analysis of case files for 45 of the 48 children who participated in interviews; and

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<sup>1</sup> The terms ‘children in care’ and ‘looked-after children’ are used interchangeably in the report.

- One-to-one interviews with 19 youth justice and social care professionals.

Ethical approval was obtained from the University of Bedfordshire and Her Majesty's Prison and Probation Service

All of the 48 children interviewed were male. Nearly half of the sample (n=22) was in care at the point of sentence (excluding those with look-after status solely on the basis of being remanded to youth detention accommodation).<sup>2</sup> Most (n=29) were placed in young offender institutions (YOIs), with just five in secure training centres (STCs) and the remaining four in secure children's homes (SCHs). This placement pattern is broadly consistent with both the national picture and that within the Consortium area.

### The use of custody in South and West Yorkshire

Analysis of 303 children sentenced to custody in the SWYC area, over a four year period, indicates that 17% were currently looked-after at the point they received their sentence. While all of the children displayed considerable needs, those in care were particularly vulnerable on a range of indicators. The latter group were also assessed as having a greater risk of reoffending than their non-care peers, and had longer criminal records at the point of entering custody. Nevertheless, despite index offences being broadly similar, looked after children were less likely to receive sentences of long term imprisonment for a 'grave crime' and, in other cases, tended to receive shorter custodial terms than their counterparts who were not in care (an average of 7.8 against 10.1 months). One possible explanation for these differences is that looked-after children are more likely to be imprisoned because of persistent offending, rather than for one-off serious offences. This hypothesis receives some support from the fact that the average 'gravity score' for current offending for children in care was lower than that for other children.<sup>3</sup>

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<sup>2</sup> Excluding children looked-after solely on the basis of being remanded to custody. Children remanded to 'youth detention accommodation' automatically acquire looked-after status under the Legal Aid, Sentencing and Punishment of Offenders Act 2012

<sup>3</sup> The Youth Justice Board classifies offence types according to level of seriousness on an 8 point scale, with 1 being the least seriousness and 8 the highest. These are referred to as gravity scores

On release, rates of breach for non-compliance with post-custody supervision, and the associated risk of being returned to custody, were higher for looked-after children, reducing the prospects of successful resettlement.

### Over-arching themes: survival and survivor identities

We found instances of positive practice; it was clear that the SWRC has led to greater professional understanding of children's experiences of custody, an enhanced focus on effective rehabilitation and improved provision. But it was also clear that if custody is to be reduced further and the particular challenges for looked-after children are to be addressed, changes will have to be made.

One of the over-arching themes to emerge from interviews was that pathways into, through and out of custody, can be understood in terms of strategies that disadvantaged and vulnerable children develop in order to survive, what they experience as, hostile environments. The pathways that led to their imprisonment were generally explicable in such terms. While all those sentenced to custody shared characteristics that included extremely troubled backgrounds, experience of high levels of instability at home, and limited engagement with education, there were, sometimes subtle, differences between looked-after children and those who were not. The additional challenges encountered by the former group, partly attributable to background but also to the care experience itself, exacerbated the risk that they would become entangled in the youth justice system and, when sentenced to custody, would experience deprivation of liberty and resettlement as more disruptive.

These differences also impacted on identities in important ways. All children exhibited strategies for survival at each stage of their journey, but a focus on surviving tended to become an integral part of the identity of children in care. The perceived need for looked-after children to be self-reliant because of what they understood to be an absence of adequate support from adults, professional and familial, meant that they did not just behave in ways that ensured their survival in whatever context they found themselves; they were also more likely than other children to develop, what we term, a '*survivor mentality*'. Children in care were not lacking in resilience: seeing oneself as a survivor requires

considerable strength. But this form of self-reliance encouraged a focus on the here and now rather than facilitating a future orientation which aids desistance. The mechanisms that reinforced such identities, the manner in which children experienced them, and how agencies might best respond, varied at each stage of their journey.

### Surviving life before custody: responding to 'street lifestyles'

The pathway to custody was, for most children, associated with spending considerable periods out of education and away from home. The adoption of a 'street lifestyle' frequently involved forms of 'survival' behaviour – such as robbery, or fighting to maintain status - that brought them into contact with the criminal justice system and an enhanced risk of custody. Aspects of the care experience made it more likely that looked-after children would make their way onto the streets, particularly for those placed in residential provision a long way from home, often against their expressed wishes. Becoming increasingly detached from those responsible for their care, and spending more time in the company of peers on the street, encouraged a perception among such children that they could not rely on others.

**We recommend** that local agencies consider how best to support children who adopt a street lifestyle, ensuring they have access to constructive activities and are re-engaged in education or training. The development of a detached youth provision might form an important element of such a strategy. Reducing the number of looked-after children who go missing, and drift towards the street, is an urgent necessity. Children's services must meet the statutory duty to secure sufficient accommodation for children in care within the local authority area wherever possible, developing additional 'in house' residential children's homes as required.

Where placements out of area are unavoidable, the provision of enhanced local support to ensure constructive daytime and evening activities that meet children's wishes and interests, and to maintain links with professionals, family and friends from their home community will help to reduce the risk that children go missing, migrate to the street and develop a survivor identity.

### Surviving custody: countering isolation

Most children, particularly those in YOIs, had a negative experience of custody which they regarded as an episode to be endured. Contact with families and friends was restricted and children complained about what they saw as the excessive use of isolation, often involving confinement to their cells for much of the day. Children in care felt particularly isolated because a lack of familial support, confirming a perception that being looked-after set them apart from other children. They adopted a distinct strategy for surviving custody, fighting to maintain status and avoid victimisation, rather than keeping their head down. This preference, a reflection of a survivor identity, led to increased restraint and segregation.

**We propose** that to address the perceived isolation of looked-after children in custody, professionals prioritise ‘informal’ contact, including regular visiting, not linked to statutory planning processes, in order to demonstrate what children see as a level of genuine care. Professionals considered that the presence of a link worker in the custodial setting, funded by the SWYRC, made it easier to maintain meaningful relationships with children on their caseload. Local authorities with a custodial establishment in their area should accordingly consider establishing similar link worker posts.

### Surviving resettlement: promoting positive futures

The transition from custody to the community provided a window of opportunity for positive change for some children, but was challenging to most. The challenge was greatest where settled accommodation or family support was lacking, factors more likely to impact children in care, thereby increasing the risk of a resumption of a ‘street lifestyle’, punctuated by further brushes with the law. Prevailing concerns over where they would live made it considerably more difficult for many looked-after children to reflect on how they might construct a positive future for themselves or take advantage of practical or emotional support offered by professionals, which are prerequisites of effective resettlement.

While difficulties with identifying stable accommodation remained, the existence of a local protocol across the SWYRC area, agreed by Directors of Children’s Services, requiring that a suitable address was identified at least two weeks prior to release, had had a positive impact. **We recommend** that other local authorities adopt a similar protocol. Children in



care should be involved, from an early point in their sentence, in discussions about where they will live so that they feel assured that suitable accommodation will be found, perceptions of the need for self-reliance are alleviated, and the potential for a focus on longer-term planning and the development of future aspirations is enhanced.

Children in care were more likely than their peers to be breached for failure to comply with post-custody supervision and were, therefore, at a higher risk of being returned to custody. Non-compliance was in some cases associated with unstable or unsuitable accommodation and the intensity of contact required by youth justice services. **We propose** that youth offending teams monitor breach to determine whether looked-after children are disproportionately subject to proceedings for non-compliance. A presumption against breach should be introduced for children in care.

#### The importance of identity: addressing 'survivor mentality'

The behaviour of most children could be seen as a response to surviving the environments in which they found themselves, but survival took on a particular resonance for children in care, who felt that they had to be self-reliant because they had less support and fewer people who cared about them. If all children sometimes engaged in 'doing survival', looked-after children were more likely to manifest a 'survivor mentality' in which relying on one's own resources, became part of their identity.

The model of resettlement previously developed by the Beyond Youth Custody (BYC) programme,<sup>4</sup> has highlighted the importance of services providing practical and emotional support to children that will empower them to develop a sense of identity consistent with future ambitions for positive achievement and leaving their offending behind them. Our research suggests that the dynamics associated with being a looked-after child at risk of, or in custody may have significant implications for how they see themselves and their future prospects. **We recommend** that practitioners with this group of children consider how to

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<sup>4</sup> Beyond Youth Custody was a six year 'learning and awareness' programme focused on building a robust evidence base for effective resettlement of children and young people to promote better policy and practice. See [www.beyondyouthcustody.net/](http://www.beyondyouthcustody.net/)

apply the BYC model by building on the resilience associated with being self-reliant while recognising that where a survivor mentality becomes part of a child's identity, fostering a sense they can also rely on others may be key to enabling the development of positive future aspirations and enhancing the prospects of desistance from offending.

## Background

The overrepresentation of children ‘looked-after’ by the local authority (those in care) in the youth justice system in England and Wales is well documented (see for instance, Laming, 2016).<sup>5</sup> While there are important limitations to the data, it is also clear that a similar, or potentially more marked, disproportionality is evident among the much smaller number of children who are remanded or sentenced to custody. In 2017/18, for instance, almost 40% of boys in young offender institutions (YOIs) reported having prior experience of local authority care (Green, 2019).

While the relationship between being care and criminalisation has been evident for some time, it is only in recent years that the issue has attracted significant policy or academic attention. This growing attention has generated an emerging evidence base which has suggested some strategies for alleviating the disproportionate criminalisation of looked-after children (Schofield et al, 2012; Laming, 2016; Staines, 2016). Although this literature has touched on the over-representation of children in the custodial estate who have care experience, no studies to date have made this issue the primary focus of attention, leaving an important gap in our knowledge.

The present report aims to go some way to bridging this gap: it outlines the findings of research that examines the experiences of a sample of looked-after, and non-looked-after, children who have been incarcerated, exploring their pathways into, through and out of custody. By comparing the experiences of those in care with those who have no care experience, it illuminates differences and similarities between the two populations. The study, funded by the Nuffield Foundation, was undertaken by a team from the Vauxhall Centre for the Study of Crime at the University of Bedfordshire, in partnership with the South and West Yorkshire Resettlement Consortium (SWYRC). Consortium members include nine local authorities, two establishments within the children’s secure estate and the Police and Crime Commissioners for South Yorkshire and West Yorkshire who work in partnership to: develop locally led approaches to improved resettlement; encourage partners to include

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<sup>5</sup> The terms ‘children in care’ and ‘looked-after children’ are used interchangeably in the report.

effective resettlement programmes in their planning processes; reduce reoffending by children who are the responsibility of South and West Yorkshire youth offending teams returning to the community after a custody sentence. The Consortium provided the research team anonymised case level data on all children entering custody across the nine local authority areas over a four year period. The Consortium was also key in acting as gatekeeper, facilitating access to potential research participants (both children and professionals), providing venues for interviews, and enabling access to case files.

## Academic context for the research

While the relationship between care and custody has not previously been the primary focus of research, evidence from earlier studies provides a helpful context for framing the findings of the current investigation. This section of the report provides a brief overview of that evidence, drawing from a more extensive literature review undertaken as part of the project (Bateman et al, 2018).<sup>6</sup>

### Different dynamics; divergent trends

Entry into the care or youth justice system might both be considered as indicators of the level of need within the child population. However, it is clear that while the needs, circumstances and behaviour of children plays a role in determining whether they become looked after or subject to criminal justice proceedings, other systemic factors intervene and are, at least, as important as the characteristics of children themselves (Rowlands and Statham, 2009; Bateman, 2017).

While the youth justice system has been subject to a dramatic contraction over the past decade, the care system has expanded substantially. Between 2008 and 2017, the number of children receiving a formal youth justice sanction (a caution or conviction) declined by 75%; by contrast the number of children coming into care rose by 22%.<sup>7</sup> The increase for those aged 10-17 years – the cohort directly comparable, in terms of age, with the youth justice population - was broadly similar to that for younger children.

These trends require different explanations. Research suggests that the growth in looked-after children is, partly, a consequence of increased inequality, itself exacerbated by reduced resourcing to local authorities (Bywaters et al, 2016). Conversely, youth justice policy and practice has shifted in favour of diversionary strategies that filter out of the system younger children and those committing less serious offences. It has been suggested

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<sup>6</sup> Where no separate reference is given, in this section of the report, the reader can assume that information is derived from that literature review

<sup>7</sup> It should be noted that the figures are not directly comparable since youth justice statistics may capture children who are given more than one sanction during the course of the year, leading to some double counting. Nonetheless, the data provide a broad indication of trends in each sector.

that one impetus for this shift from the more punitive approaches that characterised youth justice during the 1990s and early 2000s may have been the cost saving advantages of dealing with less serious delinquency without recourse to formal proceedings following the onset of financial crisis in 2008 (Bateman, 2014).

There are other notable differences between the two systems. While girls account for over four in ten of the care population, they represent a small minority (around 17%) of those in the justice system. Moreover, although both systems are characterised by an over-representation of Black, Asian and other minority ethnic (BAME), until recently this was considerably less pronounced in the youth justice population. However, over the past decade, largely as a consequence of criminal sanctioning of white children declining at a faster rate than for their BAME peers, levels of disproportionality in the care and youth justice systems have become broadly similar.

#### Dual status: in care and in trouble

In spite of these divergent trends, it is clear that coming into care and coming to the attention of criminal justice agencies might both be considered indicators of vulnerability and that both are associated with adverse outcomes. Moreover, while the interplay between care and crime is a complex one, and the large majority of children in care are not subject to criminal proceedings, it is clear that looked-after children are consistently over-represented in the youth justice system. Data suggest, moreover, that the extent of over-representation has become more pronounced in recent years because the decline in the criminalisation of children in care has been less marked than that for the 10-17 population as a whole. While children in care and those in the justice system share a range of common features, it appears that the experiences of looked-after children who are criminalised is different in important respects from their non-care peers: in particular, they are more likely to be prosecuted rather than cautioned (Laming, 2016). Research from the United States confirms that children who have 'dual system' status (those with formal involvement in both the welfare and justice systems) have worse longer-term outcomes than those whose involvement is limited to one system or the other (Wilkinson and Lantos, 2018).

As we have noted, the over-representation of looked-after children is considerably higher among the relatively small number of children who are imprisoned: almost 40% of boys in YOIs report having ever been in local authority accommodation, some 13 percentage points higher than in 2010/11. Lord Laming's review (2016) calculates that approximately 45% of children in custody are in care, excluding those of who are looked-after status solely on the basis of their remand status. It has been estimated that children in care who come into contact with the justice system are about seven times more likely to be incarcerated than their non-care equivalents (Bateman et al, 2018).

Within the custodial estate, it is apparent that the experiences of looked-after children are different – and in most cases worse – than those of other children. In YOIs, for instance, the former group are more likely to be serving a short sentence of twelve months or less but also more likely to have been in custody previously, suggesting that they have been incarcerated for persistent offending, rather than one-off offences. Looked-after children in custody also have higher, self-reported, rates of emotional, mental health or drug-related difficulties. While in the custodial environment, they are significantly less likely to be on the enhanced level of the behavioural sanction /reward scheme, they receive fewer regular visits from family, friends and social workers, and take part in constructive activities less frequently (HM Inspectorate of Prisons, 2011).

The dual status of children with a history of care inevitably exacerbates the difficulties associated with release from custody. Such difficulties frequently persist into adulthood leading to substantially higher rates of involvement with the adult criminal justice and benefits systems and a higher likelihood of involvement with health, mental health and substance misuse services.

In recognition of such problems, the government has recently published a national protocol designed to reduce unnecessary criminalisation of children in care and to improve the response of criminal justice agencies to looked-after children when they do enter the youth justice system or are imprisoned (DfE et al, 2018). The extent to which the protocol has led to substantial improvements is as yet unclear.

### Explaining the relationship between care and crime

Broadly speaking, attempts to account for higher levels of criminalisation, and imprisonment, among the care population have offered three forms of explanation:

- Adverse experiences prior to coming into care make it more likely that looked after children will behave in a manner that infringes the criminal law
- Experiences within the care system exacerbate pre-care experiences increasing the risk that looked after children will engage in criminal behaviour
- The response to lawbreaking by children in the care system is more likely to result in a formal criminal justice sanction than in the case of equivalent behaviour exhibited by children who are not looked-after. Subsequent processes within the justice system are also more likely to propel looked-after children into custody.

There is evidence to support each of these explanations. The characteristics of the care population, for instance, overlap, in important respects, with those of other children considered to be at risk of offending. For example, children admitted to care disproportionately display problems with educational engagement and achievement, high levels of substance misuse and emotional and behavioural difficulties, and each of these is also predictive of offending. On this account, the correlation between care and crime is thus largely a function of shared risk factors between the two groups of children rather than the impact of system contact. But it is also true that, once in care, children, particularly those placed in residential provision rather than foster care, may be criminalised for behaviour which would not result in police intervention were the child living with their own family. As a result, being in care can increase the risk of contact with the justice system. At the same time, high levels of placement breakdown, especially where children are placed out of area, and rapid turnover of social work staff means that for many children, the care experience is associated with instability and difficulties in forming consistent, trusting, relationships both of which have been found to undermine the potential for transitioning to a non-offending lifestyle. As a consequence, the care system itself can, in at least some cases, increase the chances that children will be subject to youth justice proceedings. Finally, there is evidence



that the operation of the criminal justice system can further disadvantage looked-after children through a more intensive policing of residential provision than of private homes, stigmatisation of the care population and harsher sentencing which, in some cases, is intended to compensate for a lack of support in the community (Bateman et al, 2018).

Although these explanatory models are logically distinct, it is clear that, in practice, they are intertwined. As Staines (2016: 6) puts it:

*'... children who enter care having experienced abuse and trauma are then particularly vulnerable to being negatively influenced by relationships and experiences within care. The impact of this interaction is then exacerbated by involvement in the youth justice system itself, which can further criminalise looked after children'.*

### Care and custody

The counterproductive, damaging, nature of custody for children is increasingly recognised. In England and Wales, moreover, despite a substantial decline in the number of children imprisoned, it is apparent that the experiences of children confined in the custodial estate have deteriorated in recent years, leading to widespread acknowledgement that current provision is *'not fit for purpose'* (see for instance Youth Custody Improvement Board, 2017: 6). Levels of violence, self-harm, restraint, and the use of isolation have all risen sharply over the past five years (Youth Justice Board/ Ministry of Justice, 2019). In 2017, HM Chief Inspector of Prisons (2017) observed that none of the children's YOIs or secure training centres (STCs) which it inspected were safe places to hold children. It should be noted that assessments of some institutions have shown improvements in the interim, nonetheless, in 2017/18, 40% of boys in YOIs and one third of children in STCs reported having felt unsafe at some point during their custodial episode (Green, 2019). Equivalent information for secure children's homes (SCHs), which accommodate a small proportion of the child custodial population and are generally acknowledged to provide a more appropriate setting for children deprived of their liberty, is not available (Bateman, 2016).

If the overall picture is concerning, the experiences of looked-after children would appear to be worse. As noted above, children in care receive fewer professional and personal visits, leading them to feel that they are looked down upon by staff and their peers. They receive less pocket money and this results in feelings of being abandoned as well as a range of practical difficulties within the institution, including maintaining contact with families and friends.

### Resettlement

The literature on resettlement of children from custody, confirms that, despite a high policy profile accorded to this area, practice is for the most part characterised by a failure to commence planning for release from the start of the sentence and a corresponding failure to ensure that suitable accommodation and education, training or employment are in place sufficiently in advance of the release date (HM Inspectorate of Probation, 2019). For looked-after children, the situation is demonstrably worse. Those in STCs and YOIs, for example, report being less likely to know where they will live on release and anticipate having more problems with accommodation, finding a job and accessing health services (Taflan, 2018), a perception confirmed by repeated thematic inspections (HM Inspectorate of Prisons, 2011; HM Inspectorate of Probation, 2019). In this context, it is significant that criminal justice professionals, both in custody and in the community, frequently fail to identify children who have been looked-after, or have leaving care status, and are unclear about the entitlements which such status ought to ensure (Fitzpatrick et al, 2016).

Recent research has indicated that effective resettlement is best understood as a process which, where it is successful, involves the child in making a shift in self-image and identity as they develop aspirations for the future that entail distancing themselves from offending (Hazel et al, 2017). Supporting that process is challenging given the nature of the custodial environment described in the foregoing paragraphs, where institutionalisation tends to undermine a sense of agency, reinforce delinquent identities and gives rise to a range of systemic barriers to desistance – for instance by limiting opportunities for training and employment. Resettlement provision for children in care has to address a set of more deeply rooted and complex issues than may be the case for children without care status. The personal and structural supports for looked after children may be more limited, leading

to a diminution of their social capital, thus reducing opportunities for engagement with pro-social institutions. These factors, in turn, discourage the development of identities based on optimism for the future, making the process of desistance more challenging for them. The current research programme is designed to shed greater light on these issues and to inform policy and practice.

## Aims and methods

The aim of the research was to explore the experiences of children in care who are sentenced to custody. In particular, the study aimed to produce an account of the pathways of looked-after children into, through and out of custody and, by adopting a comparative approach, to identify ways in which these pathways differ from those of children sentenced to custody who are not in care.

The study used a mixed methods research strategy that combined:

- Analysis of quantitative data held by the SWYRC in respect of just over 300 children sentenced to custody between 2014 and 2018;
- One-to-one semi-structured interviews with 48 children from the nine local authorities within the SWYRC, who were either in custody or had been released within the preceding twelve months;
- Analysis of case files for 45 of the 48 children who participated in interviews; and
- One-to-one interviews with 19 youth justice and social care professionals in both strategic and operational roles.

Prior to commencing fieldwork, which was conducted between October 2018 and September 2019, ethical clearance was obtained from the University of Bedfordshire, and Her Majesty's Prison and Probation Service.

## Access

Quantitative data were derived from the 'tracker' database used by the nine local authorities across the consortium area to record consistent information on all children sentenced to custody. The SWYRC provided the research team with anonymised tracker data for the four year period, from 2014 to 2018, capturing a total of the 298 children sentenced to custody. Although completion of some fields was variable, the data provided a broad overview of custodial trends, in the Consortium area, over the period, and of the characteristics of children deprived of their liberty, including the seriousness of the index offence, sentence length, accommodation and education status, care status and basic

demographic information. The database also recorded a range of 'risk factors' such as substance use, physical health and mental health. Analysis, using SPSS, allowed the research team to make some comparisons between looked after children sentenced to custody with those who were not in care.

SWYRC was also instrumental in identifying potential participants for interview and acting as gatekeeper. Children in the community were approached, in the first instance, by their youth offending team (YOT) worker who provided them with written information on the project and established whether they might be willing to take part in the study. Where initial interest in participating was forthcoming, children's agreement to be contacted by the research team was sought. Where provisional consent was given, discussions were held with youth justice workers to ascertain whether there were any potential issues, such as literacy/ numeracy / communication difficulties in preparation for the interview. The Consortium funds a link worker based in the local young offender institution (YOI) where the majority of children were detained. The person in that role acted as gatekeeper in relation to children in that establishment and approached them to establish preliminary consent. Children in other parts of the secure estate were given information about the study in the first instance by their case manager. Where initial consent was given, the research team arranged to visit the child in the custodial establishment to confirm informed consent and to conduct the interview where that consent was forthcoming.

The Consortium, through its operational and strategic groups, was also pivotal in helping to identify key individuals who might take part in professional interviews. Professional participants were approached directly by the research team and provided with a written information sheet outlining what taking part would involve. Although SWYRC was a partner in the study, participation of individual staff was voluntary and subject to informed consent.

### [The research sample](#)

As noted above, 48 children with experience of custody were interviewed for the study; follow up interviews were completed with six children within two months of them leaving the secure estate. The sampling strategy did not aim to achieve representativeness for two reasons: first, there was an element of convenience sampling based on gatekeepers'

willingness to approach children on our behalf and children being willing to take part; second it was important that children in care, who were the focus of the study, constituted a higher proportion of the sample than would have been the case if the sampling had reflected the total custodial population across the Consortium area.

All of the children interviewed were male but this is perhaps unsurprising given the small number of girls sentenced to custody. Children participating in the study were predominantly in the upper age range. Indeed, 34 interviewees (71%) were aged 17 years or older. As described below this was a considerably higher proportion than the total custodial cohort captured in the 'tracker' data for the whole of the Consortium area. Approaching half of the sample (n=22) was looked after at the point of sentence (excluding those with looked after status solely on the basis of being subject to a remand to youth detention accommodation). One third of the sample (n=16) were of BAME origin but looked after children were less likely to come from a BAME community – six of 22 (27%) compared with 10 of the 26 children who were not in care (38%). A large majority – 39 of the total – were placed in a young offender institution, with just five in secure training centre (STC) and the remaining four in a secure children's home (SCH). As discussed in due course, this pattern of placement is broadly consistent with both the national picture and the experience of children sentenced to custody across the Consortium area.

As shown in table 1, the looked after group were most likely to be living in residential care prior to being sentenced to custody; the majority of those not placed in children's home were living in supported tenancies.

**Table 1: Placement of looked after interviewees prior to custodial episode**

<b>Nature of placement</b>	<b>Number of children</b>
Residential children's home	10
Supported tenancy	8
Living with extended family	2
Own tenancy	1
Secure children's home (welfare grounds)	1

Although children were not formally asked about the offending that led to the current custodial episode, it was clear from the data they provided in interview that the large majority had engaged in offending behaviour that included violence, robbery and domestic burglary. As outlined below this is broadly in line with the more general pattern for custodial sentences across the Consortium area. As discussed later in the report, these forms of behaviour appeared to be related to the children spending considerable periods of time outside of the home environment and 'on the street'. One might anticipate that this would be the case for many offences of robbery and violence but it was equally true of many of the domestic burglaries where the purpose of gaining entry to the property was to steal car keys with the sole aim of stealing high-value vehicles (also known as a Hanoi burglary). Prior to improvements in car security, taking a motor vehicle would not have necessitated breaking into the property and would therefore be less likely to result in imprisonment.

Nineteen professionals were also interviewed for the study. The majority of these worked in youth justice with the remainder occupying various roles in social care. The range of positions held by these participants is shown in table 2.

**Table 2: Professional interviewees by nature of their role**

<b>Nature of role</b>	<b>Number of interviewees</b>
Youth justice case worker	6
Youth justice operational manager	3
Criminal justice strategic manager	3
Child care social worker	3
Social care operational manager	2
Care home manager	2

### Data collection and analysis

The research team recognised that data emerges as a product of interaction between interviewer and interviewee (Charmaz, 2007) and that the nature of the interview, the relationship between the interviewer and interviewee, and the setting can all impact on the data.

Interviews were semi-structured and utilised a topic guide consisting of a series of open questions and prompts that aimed to allow participants to feel at ease and tell their own stories, in the process developing a ‘conversation with a purpose’ (Burgess, 1984: 102).

In children’s interviews, topics included personal and care, pathways into custody, experiences while deprived of their liberty and hopes, aspirations and anxieties for their future in the community. Interviews with professionals explored their views on the current challenges facing children in care, their perception of different workers’ roles in relation to children’s involvement in the care and justice system and the custodial estate and the key decision which had the greatest impact, positive or negative, on the child.



Children who took part in interviews were asked if they would agree to the research team accessing their case files. Consent was given by 45 of the 48 interviewee. Access to the files was also dependent on permission from each of the relevant local authorities. Once permission was granted, data from youth justice and social care case files were captured on site, using a standardised template developed for this purpose in order to ensure consistent recording. Information was anonymised at the point of recording and saved securely on a lap top prior to leaving the premises. As a consequence, no files or identifying information were removed from the building. The analysis focused on identifying key turning points in the children's lives; exploring how descriptions of pathways into, though and out of custody were captured; and the extent to which these representations accorded with children's own perceptions.

Analysis of data, derived from interviews and case files, involved the identification of recurring themes which could provide an explanatory context for individual experiences. These themes are explored in the remaining sections of the report.

### Limitations

The study inevitably has limitations. It draws heavily on data from interviews with children and self-reports are subjective: two individuals can experience the same intervention very differently; responses can be influenced by selective memory; the setting where the interview takes place and interactions between the researcher and interviewee can influence what children do or do not say; and participants may have different motivations for promoting particular narratives. Children's reports about the services they receive in custody and the community cannot accordingly be taken as an accurate indication of the extent and quality of that provision. Such risks are mitigated, in part, by triangulation through the case file analysis and interviews with professionals, although each of these data sources are themselves subject to bias and selectivity. More importantly perhaps, if children's pathways are determined by an interaction between their background, their environment, interventions delivered (or not delivered) through the care and youth justice systems and how they experience, make sense of, and respond to that context, then capturing their perceptions is an essential part of understanding their trajectories to date and their potential futures. In particular, to the extent that prospects for successful

resettlement of children who have experienced custody is dependent on issues of identity, as suggested by some proponents of desistance theory (see, for instance, Hazel et al, 2017) then the meanings that respondents give to their stories may be as important as objectivity.

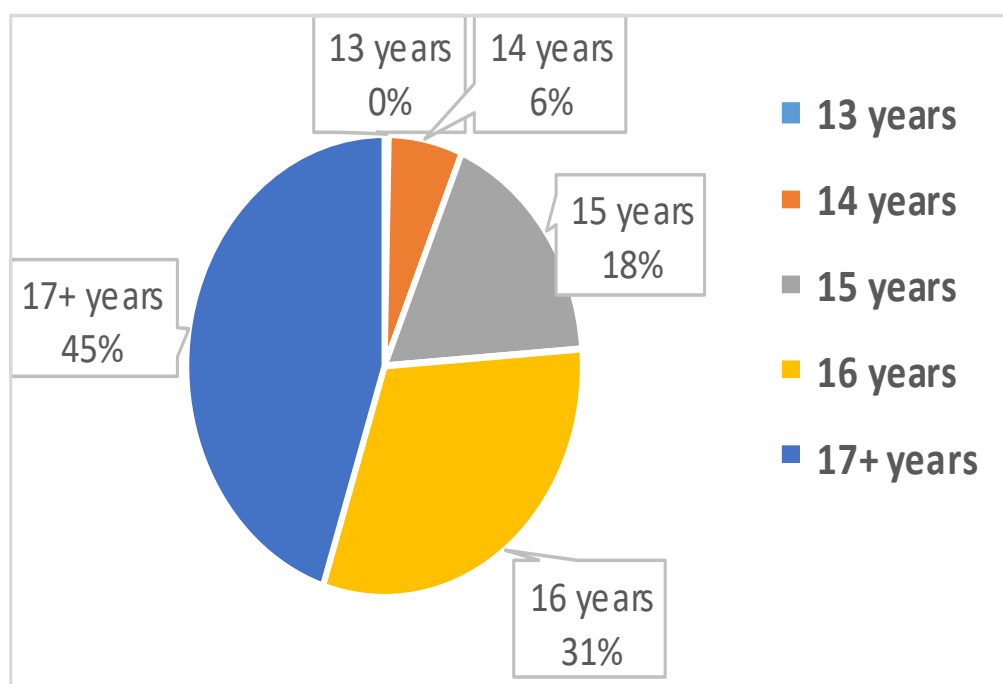
Children participating in interviews were a very particular group, derived from the small proportion of children who are subject to imprisonment. Their experiences cannot accordingly be considered typical of the wider pool of children who have had contact with the youth justice system. Similarly, the experiences of that part of the sample who were in care at the point of incarceration may have little in common with the considerably larger body of looked-after children who do not offend.

Nor can it be claimed, given the geographical focus of the study and the size of the sample, that the findings are representative of the broader population of children in care who experience custody. Two contextual considerations might however be noted in this regard. First, South and West Yorkshire is the only area in England and Wales to retain a resettlement consortium and this implies a level of commitment from the nine local authorities, and other member agencies, to improved resettlement practice that may not be evident elsewhere. Of particular importance is the establishment across the Consortium area of an accommodation protocol, agreed by each of the Directors of Children's Services, to ensure that children in custody know where they will be living when they return to the community sufficiently in advance of their release date. The Consortium also funds a link worker post in the local YOI to facilitate good working relationships between services in the community and provision within the secure estate. As a consequence of this commitment to improve resettlement outcomes and the practice initiatives which have followed, it might reasonably be anticipated that the experiences of looked after children in custody within the sample will not be substantially worse than that in other parts of England and Wales. Second, the YOI where many of the children who took part in the study were detained, achieved a rating of 'reasonably good' or 'good' for each of the indicators of healthy prison outcomes in its most recent inspection (HM Inspectorate of Prisons, 2019). It might accordingly be assumed that the experiences of children within the institution are at least as favourable as those placed in the other four children's YOIs across England and Wales since these establishments have not generally achieved such favourable ratings.

## The use of custody in South and West Yorkshire

According to the SWYRC 'tracker' database, 303 children from the nine local authorities in South and West Yorkshire were sentenced to custody in the four year period 2014-2018. As might be anticipated, the large majority, 98%, were male. The custodial cohort came predominantly from the upper age range of the youth justice system's jurisdiction. As shown in chart 1, almost half (45%) of the children were 17 years or older at the point of sentence. A further 31% were aged 16 years.

**Chart 1: Children sentenced to custody by age: 2014-2018**



The gender breakdown is broadly in line with the national picture. In 2018, 3% of children sentenced to custody were girls (Youth Justice Board / Ministry of Justice, 2019). The age distribution is also largely comparable to that for England and Wales: in 2018, just 6% of children sentenced to custody nationally were aged below 15 years (Ministry of Justice, 2019b).

In terms of ethnicity, as indicated in table 3, almost three quarters of the cohort were white and 27% came from a Black, Asian or other ethnic minority (BAME) background. The proportion of children sentenced to imprisonment in the Consortium area of BAME origin is,

at 27%, considerably lower than the national figure – 42% in 2018. However the two sets of data are not comparable since the ethnic composition of the general child population varies sharply from one region to another.

**Table 3: Children sentenced to custody by ethnicity**

<b>Ethnicity</b>	<b>Asian</b>	<b>Black</b>	<b>White</b>	<b>Mixed heritage</b>
	15%	5%	73%	7%

**Table 4: Children sentenced to custody by care status<sup>8</sup>**

<b>Looked after status</b>	<b>Currently in care</b>	<b>Previously in care</b>	<b>Looked after due to custodial remand</b>	<b>No care status</b>
	50 (17%)	25 (8%)	46 (16%)	131 (44%)

Table 4 indicates that fifty children, accounting for 17% of the total, were in care at the point of detention. A further 8% had a previous history of care and 16% had acquired looked-after status solely on the basis of having been remanded to youth detention accommodation.<sup>9</sup> More than four in ten of the total had no care history recorded. There are no comparable published national data on the proportion of children sentenced to custody who are looked after. Available figures, cited earlier in the report, relate to the population of the secure estate at a single time, rather than the numbers of children entering custody. Nonetheless, it is clear that looked after children in the Consortium area, in common with those across England and Wales, are overrepresented among those sentenced to imprisonment. Children in the care at the point of sentence were less likely than their non-care counterparts to come from an ethnic minority: 14% of the former group were recorded as being of BAME origin compared to 29% of the latter.

<sup>8</sup> Figures do not sum because of cases where information is not recorded

<sup>9</sup> The Legal Aid, Sentencing and Punishment of Offenders Act 2012 provides that when children are remanded to youth detention accommodation (the equivalent of an adult remand to custody), they automatically acquire looked-after status.

Children in penal detention are placed in YOIs, secure training centres (STCs) or secure children's homes (SCHs), depending upon their age, gender and assessed vulnerability. YOIs are significantly larger and have lower staff to child ratios than the other types of units and, in consequence, are generally regarded as providing a less suitable environment for children (Bateman, 2016; End Child Imprisonment, 2019). Notwithstanding this broad consensus, the large majority of children across England and Wales - 73% of the child custodial population in October 2019 – are placed in such establishments (Ministry of Justice, 2019b).

Information on placement type was frequently not completed in the tracker database, making meaningful comparison difficult. Nonetheless in those cases where information was available, more than 70% of children were placed in YOIs, indicating that a small minority were placed in STCs or SCHs, consistent with national patterns.

Despite this pattern of placements, it was clear that the large majority of children sentenced to custody had high levels of need. For instance, where information was recorded, more than half (55%) were assessed as having mental health needs prior to entering custody; the equivalent figure for substance misuse needs was higher at 74%. Moreover, it was apparent that, as shown in table 5, assessed levels of need for children in care were considerably higher than for the overall population.<sup>10</sup>

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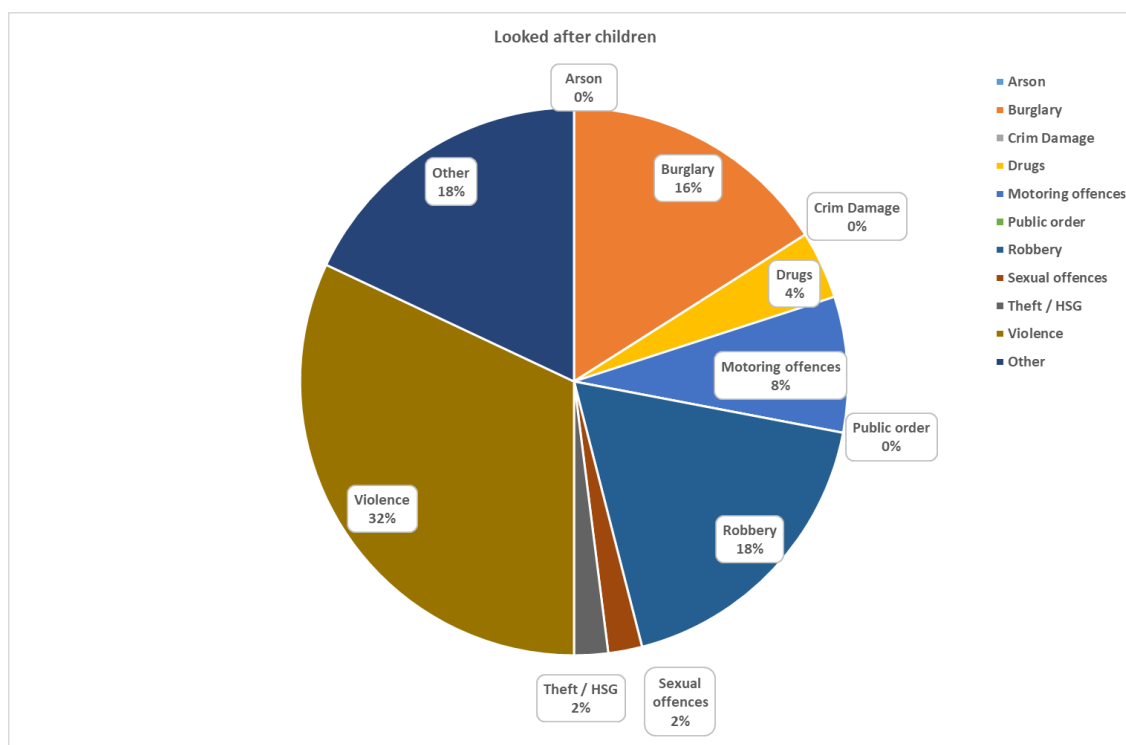
<sup>10</sup> For purposes of analysis, children with looked after status purely as a consequence of being remanded to youth detention accommodation are classified as not being in care. The figures exclude cases where care status is not known

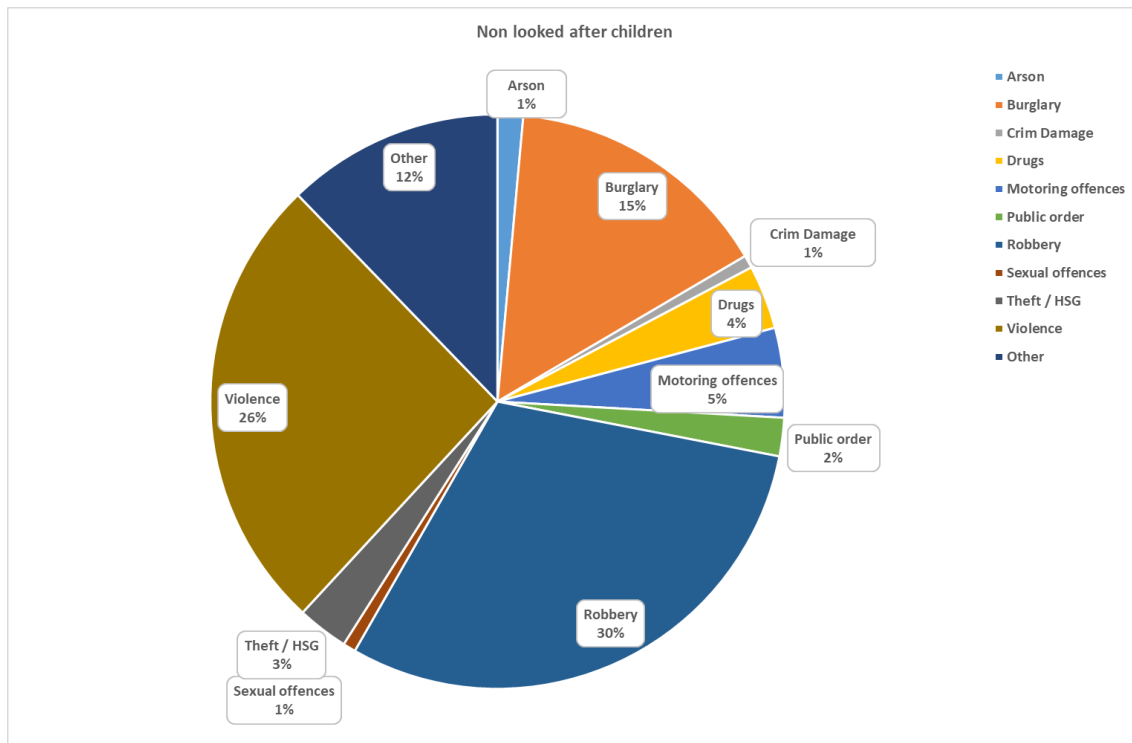
**Table 5: Proportion of children with assessed mental health and substances misuse needs by looked after status**

Type of assessed need	Children in care	Children not in care
Mental health needs	63%	50%
Substance misuse needs	85%	70%

Robbery and violence against the person accounted for half of all custodial episodes, in line with the national picture. In 2018, for example, 52% of children sentenced to custody across England and Wales had committed such offences (Ministry of Justice, 2019b). However, as can be seen in chart 2, looked-after children were more likely to be imprisoned for violence against the person, while those not in care were more likely to have committed offences of robbery. Those in care were also slightly more likely to be sentenced for motoring offences. Otherwise the distribution of offending was broadly similar between the two cohorts.

**Chart 2: Offences leading to custody: looked-after and non-looked after children**





The large majority of children - 82% - were sentenced to a detention and training order (DTO), the standard custodial sentence available in the youth court. Although the maximum DTO is 24 months (half of which is served in the community), relatively few children – 18% - were given an order longer than 12 months. The remaining 18% of the cohort were given sentences of long-term detention, of more than 2 years, a disposal which is only available in the Crown Court for ‘grave crimes’. This distribution is once again typical of the pattern of custodial sentencing across England and Wales: in 2017/2018, 82% of children deprived of their liberty were given a DTO (Youth Justice Board / Ministry of Justice, 2019).

As shown in table 6, children in care at the point of sentence were less likely to receive orders involving long term detention than their non-care counterparts: 10% compared to 15%. This pattern was also reflected in the fact that the average sentence length for the former group was shorter. Where DTOs were imposed, children in care were also subject to shorter sentences on average: 7.8 against 10.1 months. At the same time, children in care had, on average, considerably more previous cautions or convictions. Where information was available, the average ASSET score (a numerical indication of the risk of reoffending derived from the standardised assessment tool used by YOTs until it was replaced recently

by ASSETPlus), was higher for children in care – 36 compared with 27. One possible explanation for these differences is that looked after children are more likely to be imprisoned because of persistent offending, rather than the seriousness of their current offending. This hypothesis receives some support from the fact that the average ‘gravity score’ for current offending for children in care at the point of sentence was slightly lower than that for other children (4.9 against 5.3).<sup>11</sup> Looked after children were also substantially more likely to be breached for failure to comply with the requirements of post-custodial supervision: one in four children in care were returned to court for non-compliance compared to less than one in ten of those not in care.

**Table 6: Custodial outcomes and other indicators: children in care at the point of sentence and those not in care**

	In care at point of sentence	Not in care at point of sentence
Proportion of children given DTOs	90%	85%
Average sentence length (all orders)	11.5 months	18.1 months
Average length of DTO (where that was the sentence)	7.8 months	10.1 months
Average number of previous cautions/ convictions	6.9	3.4
Average gravity score of current offence	4.9	5.3
Proportion of children breached for breaching post-custody supervision	24%	9.3%

In summary, then it would appear that while the majority of children displayed considerable needs and were sentenced to custody for similar types of offence, children in care, on average, displayed greater levels of need, had more previous criminal justice disposals, were assessed as being at a higher risk of reoffending but, nonetheless, tended to receive shorter

<sup>11</sup> The Youth Justice Board classifies offence types according to level of seriousness on an 8 point scale, with 1 being the least seriousness and 8 the highest. These are referred to as gravity scores



custodial sentences than their peers who were not looked after. On leaving custody, they were also more likely to be subject of breach proceedings with a consequent risk of a return to the custodial estate.

## Overarching themes: the need to survive and the survivor identities

The prevalence of offending linked to ‘the street’ – both for the total cohort of children sentenced to custody and for the interview sample – has already been noted. In discussing the circumstances which led to them being arrested for offences such as robbery or violence against the person, children in interview consistently described a lifestyle that involved them in associating with other young people outside of their home environment. A dominant theme that pervaded discussions was that of survival. Although the term itself was used rarely, children’s responses were full of accounts of what it was necessary for them to do in order to survive the public spaces where they spent a considerable proportion of their daily existence. As one child in care, who was placed in an area away from his family home, put it:

*So obviously I learned quick ... how to survive, how to earn money... Just living on the street, just walking round the street, just being able to walk where you want*  
(Looked-after child, 9).

Moreover, this narrative of survival extended to the mechanisms that children deployed to navigate the systems that impacted directly upon them, including the youth justice system, custodial institutions, and, for those who were looked-after, the care system. Children’s experiences of those systems was explained largely in terms of the pressures they placed upon them and the threats, and potential losses, that they represented to them. For children in care, in particular, managing their way through the care process became a primary focus. As a consequence, while issues of survival were significant to all children in the sample, they tended to take on additional importance for children who were looked-after. Indeed, as will become apparent, many of the children in care were distinguished from others in the sample by the fact that they did not just behave in ways that they considered essential to their lifestyle, they also came to see themselves as survivors, individuals who had to look after themselves because, as they saw it, they could not rely others to ensure their wellbeing.

The dominance of this theme of survival as it emerged through analysis, and its evident importance to the children in the study, suggested to us that a helpful way of presenting

findings was to follow the child's chronological journey – the pathways preceding custody, through custody and out of custody back into the community – through the lens of how those pathways were survived and the implications for how children saw themselves, their place in their social worlds, and what the future held. Structuring the findings in this manner has the advantage of foregrounding issues of identity, which as noted earlier, are generally considered key to the prospects that children will successfully grow out of offending.

## Surviving life before custody

### Time spent on the street

All of the children interviewed, whether or not they were in care at the point of incarceration, revealed unsettled family backgrounds, often marked by frequent moves to new areas and unfamiliar environments. Children who were not looked-after did not generally acknowledge, or played down, previous contact with children's services but case files indicated some social services' involvement with nearly all families in the sample, frequently in relation to a background of domestic abuse that was common to almost all of the sample. At the same time, it was clear from case files, as might be anticipated given the substantially higher levels of mental ill health and substance misuse among the care population, that the extent of need among looked-after children in the sample was more pronounced.

Davis and Ward (2011) have noted that when children experience multiple transitions, they are more likely to engage in self-destructive behaviour, including delinquency. In the current study, unsettled family background was often mirrored in an unsettled education. In interview, children frequently described displaying challenging behaviour in school, typically from Years 5 or 6, when they were aged between 9 and 11 years. Problems at school, in many cases, coincided with difficulties at home, but few children reported receiving any forms of support that they found helpful, with misbehaviour being met with '*detentions and isolations*'. As one respondent put it:

*'the only reason why I was really in trouble at school is because, like I say, my anger issues, obviously being confronted, I didn't like being confronted by teachers, so if they'd shout at me, I'd shout at them, do you know what I mean? It was tit for tat with them'* (Child, not in care, 12).

By Year 7 or 8, ages 11-13 years, most of the children reported having been excluded from mainstream education and placed in alternative provision or simply having stopped attending school through their own volition. It was rare for a placement in alternative provision to lead to a return to mainstream schooling; more commonly children described

dropping out of education altogether, a pattern that was captured in many of the case files. As a consequence, nearly all of the children interviewed were not in any form of education, training or employment in the period immediately prior to receiving custody.

A disrupted education, frequently in conjunction with difficulties in the family home, was for most of the children we interviewed pivotal in explaining why – with little else to do and nowhere else welcoming to go – they spent considerably greater periods of time on the street than most children of their age, in the company of like-minded peers also out of education, whom they sometimes described as ‘family’.

This lifestyle was conducive to forms of behaviour that contravened the law. Many of the offences which respondents described having committed, including street robbery, possession of weapons, driving offences, burglary and physical assault, were emanations of their involvement in what Hallsworth (2013) calls ‘violent street worlds’. One might anticipate that this would be the case for many offences of robbery and violence but it was equally true of many of the domestic burglaries where the purpose of gaining entry to the property was to steal car keys with the sole aim of stealing high-value vehicles (also known as a Hanoi burglary). Prior to improvements in car security, taking a motor vehicle would not have necessitated breaking into the property and would therefore be less likely to result in imprisonment. Children’s accounts of their unlawful activities located them clearly within such worlds and was accordingly largely consistent with that provided by the quantitative data for the whole of the Consortium area.

While not all children did so, many of the interviewees talked about the necessity of carrying a knife on the street, rationalising weapons possession in terms of what it took to survive in that environment. Knives were considered necessary as a form of self-protection but also to maintain a plausible presence on the street, projecting to outsiders (as well as to themselves) a particular kind of ‘tough’ persona that was important to maintaining their street identity.

*No, the thing is with having a knife on you in [this town], not even just in [this town], it is everywhere yeah, if you follow that lifestyle, you’ve got to have something on you (Looked-after child, 3).*

In some cases, respondents described a literal arms race which involved acquiring increasingly large, more dangerous, weapons:

*Yeah, kids that could cause damage to me... [were starting to carry knives so ]... yeah, I might as well, do you know what I mean? If I'm going to lose my life, at least be him and not me, that's all I can say (Child, not in care, 12).*

### From care to the street

As indicated above, children who had not been in care were not as a consequence immune from prior experiences of difficulty and disadvantage which they, in many cases, shared with children who were looked-after. Time spent out of education and outside the home was typical of both groups. Nonetheless, there were discernible differences, albeit sometimes nuanced, in the stories which respondents told. In particular, children in care described background circumstances in which a range of factors, explicitly related to their care experiences, combined to propel them onto the streets and encouraged behaviour that was likely to precipitate contact with the criminal justice system. As a consequence, the adoption of a street lifestyle was understood by those children as being, at least in part, a legitimate response to how they felt the care system had treated them.

Most of the children in the looked-after sample had been placed in residential care, often for considerable periods of time, prior to the point of imprisonment. Many of them reported features of that form of placement which served as a constant reminder to them that they were not living in what they would characterise as a home. As one interviewee explained:

*Yeah, it was a nice house, but it wasn't a home... Home is a place where, when you go to your home, it's two different things, I don't know how to explain it, when you say, "I'm going home," you're going to a place where your family's there, you're going to your happy place, you're going to your own little area (Looked-after child, 3).*

Home for this young person was associated with a sense of ownership and belonging; a space that provided an opportunity to be themselves. Many of the children made it clear that they did not think of residential care as having these characteristics, even if they

recognised that some of the establishments were '*all right; it were not bad*' (Looked-after child, 35). This was a source of frustration for them which compounded the discontent which most of them felt as a consequence of not living in their family home. Many of the children we spoke to had experienced multiple placement moves, leading to a sense of instability and tending to undermine motivation to get to know a new children's home because of expectations that their stay would be temporary and short-term.

A number of features of residential provision stood out as making it more likely that children would feel uncared for, in spite of the good intentions of staff. Contact with family and friends was, unsurprisingly, a high priority for children who were no longer living in the family home. In this context, limitations on access to the internet or mobile phones which, we were told, was commonly dependent on 'good behaviour' in residential provision led to considerable exasperation for most children and infuriation for some. As one interviewee explained:

*It was just unnecessary, like completely unnecessary. Like I can understand to a certain extent why certain restrictions might have been put in place, but then again to the extent they did is ridiculous. It took them six months for me to be able to have a mobile phone and for me to have contact with my girlfriend, that's only two restrictions lifted in six months and they still wouldn't let me out on my own or anything* (Looked-after child, 6).

The reference to restrictions over and above those involving access technology was a further theme that emerged as important for respondents. Many complained of being subject to monitoring and oversight which they found intrusive and considered an unwarranted encroachment on their personal space. This was particularly true of children who reported that they had been assessed as 'high risk' which sometimes led to them being 'managed' in their placement by 1:1 or 2:1 staffing ratios. Some children accordingly described themselves as being constantly watched, hindering opportunities to 'be themselves' or relax in the home with children their own age. The feeling that they were subject to constant surveillance was exacerbated where children received their education at the placement, meaning that they did not have the benefits of socialising with peers in the way children attending mainstream schooling might take for granted.

Complaints about monitoring were frequently linked to a wider irritation at what many children saw as being petty rules that served to further distinguish children's homes from a familial setting. Examples included the locking of kitchens, or in one instance, of the bathroom so that residents had to ask a member of staff to give them access to what they considered ought to be freely available spaces. Further grievances, from the children's perspectives, was the expectation that they would go to their bedrooms at a particular time or that friends were not allowed to visit them in some establishments. As one told us:

*And, most of my friends, they wouldn't let none of my friends in because they thought they were all bad people* (Looked-after child, 1).

Another expressed dissatisfaction with the bedtime arrangements:

*[Staff] are telling me, "You have to go inside your room now, it's nine o'clock". "What do you mean nine o'clock?" That pissed me off.* (Looked-after child, 3).

Crucially, children in residential care reported feeling that they were treated as a 'looked-after child' rather than as an individual. This treatment inevitably impacted on how they saw themselves, leading to what Kools (1997: 267), in her study of children in foster care, describes as 'the devaluation of one's personal identity'. As one interviewee explained:

*[In a family] they treat you as if, how they'd want to be treated and they treat you with respect as long as you treat them with respect and they look after you better and stuff like that but in care homes, they just treat you as another child really....*

*It was shit, rubbish, in a care home I'd rather someone just talked to me and just speak to me about what's going on instead of telling me stuff last minute and if I make plans and stuff, they tell me last minute and then I end up having to cancel my stuff and it just does my head in* (Looked-after child 6).

Being treated as 'just another child' signified to children that their legal status was more important to care staff than who they were. Such perceptions reflect previous research which suggests that institutions tend to understand their service users through the lens of 'formula stories' which have the potential to mask individuality (Loseke, 2001). Children sometimes interpreted what they perceived to be a lack of concern for them as individuals



as a lack of respect, an issue of considerable importance for many young people. At the same time, such treatment also reinforced children's feelings that they had little control over their lives and minimal say in decisions taken about them. In this context, spending time out of the children's home, on the street, was in at least some cases an attempt to wrest back some control.

Professional respondents, from both youth justice and social care, recognised that decision making was often determined by systemic, process driven, pressures as much as the needs of the individual child. As one youth justice worker put it:

*I just think social care and youth justice could sometimes compound the anti-establishment view that young people have, by the approach that we're taking which doesn't seem to be child-centred and seems to be more institutional led... (Professional 2, youth justice worker).*

Professionals were also keenly aware that a lack of consistency from services reinforced children's sense that they were not treated as individuals. This was particularly true in relation to staff turnover. As one respondent argued:

*He was 15 and been in care since the age of 10, and within that time I think he'd had over 42 social workers. How can you trust anybody or talk to anybody? If you think, 42 social workers in five years, does that even work out, one a month? .... but the fact was the impact on that child I know was huge, because they didn't have anybody (Professional 10, care home manager).*

A particularly important factor that increased the likelihood that children in care would gravitate towards the street was placement a long way from the family home, friends and community. Of the 22 children in care interviewed, ten had been placed outside of their home local authority at the time of sentence and these tended to be the ones who had experienced a number of previous placement breakdowns. Generally speaking such children considered that they had been placed with little regard for their own wishes and they therefore had little investment in settling into what they regarded as an alien environment. As one recalled:

*But I never wanted to go there to start with, because from the police station I got picked up by this social worker. I said, "I ain't going with you." The next thing you know the police put me in the back of a police van and then took me to [area of placement]. So, obviously I got a police van to go into care, and then I had like a little suitcase that they'd already got from my house. So, I didn't pick none of my clothes, he just picked them for me (Looked-after child, 35).*

Another put it more succinctly:

*As soon as I walked through the door I said, "No", I turned around, jumped back in the social worker's car (Looked-after child, 5).*

A recent All Party Parliamentary Group inquiry has confirmed that being placed 'out of area' is one of the main explanations that children in care give for going missing (The Children's Society, 2019). Children in our sample described running away from the placement shortly after arrival or going into the streets to find other young people with whom they might associate as soon as they could. Children from a BAME background pointed to the additional personal challenge of being placed away from their home community in an unfamiliar area that was largely 'white'. They reported occasions when they were met with racist comments which led to them being particularly uncomfortable, or sometimes, distressed with the location of the placement. As a consequence, they were more inclined to try to return to their home area without permission or to quickly identify local groups of young people on the street with whom they might feel safer.

Youth justice and social care professionals recognised that most children disliked being placed outside their local authority, that such placements severed bonds with families and friends and made it less likely that the child would re-engage with education. However, they reported that, in practice, there was often little choice as local placements were limited in number and had all been exhausted. They also acknowledged that, despite their best efforts, maintaining appropriate levels of contact and supervision became more difficult the further the child was from home. This in turn inevitably impacted on the quality of the relationships between professionals and children for whom they were responsible.

Professionals also concurred that children were more likely to go missing when placed away from home, but considered that this was further exacerbated by the location of many privately managed facilities which accounted for most out-of-area placements. This was not simply a question of distance: some staff indicated that private homes tended to be established in areas where rents were cheaper, and social problems – such as levels of crime, violence and easy availability of drugs – were higher.

But it was not just the location of private children's homes that generated concern. Professionals also reported better working relationships with local authority care home staff. This was partly an issue of familiarity but also a function of a lack of consistency. A number of interviewees noted higher rates of staff turnover in private placements, leading to a 'constantly revolving door' of agency staff. There were also concerns in relation to the quality of provision: some practitioners felt that what was offered 'on paper' by private providers often did not match the reality experienced by the child. The view expressed by one interviewee in relation to a private children's home that purported to offer a therapeutic environment, was not untypical:

*'in reality, it was difficult to see what was remotely therapeutic about it'*

(Professional 12, youth justice practitioner).

### The care / crime connection

Professional interviewees recognised that being in care was associated with higher levels of involvement in the youth justice system, and that placement in residential care in particular made it harder for children to stay out of trouble. One local authority residential worker, for instance, while believing that the establishment in which they worked had '*proved that we're good, we're consistent, we're outstanding*', acknowledged that there was a correlation between residential care and custody which they explained in the following terms:

*For one they're going to be mixing with other young people that potentially have that desire to go out and commit crime, desire to use drugs, substance misuse, so there's that straightaway.... you've got several estates quite close by, so there's potential for mixing with other ... young people who are likeminded. School can be a problem, if they're not in mainstream school, they're attending alternative provisions which*

*again, can have people that are of that nature* (Professional 4, residential social worker).

Children themselves provided examples that supported findings from the literature that living in a children's home can lead to criminalisation for behaviour that would not result in the police being called in a family home. One described his trajectory to custody in the following terms:

*Most of [the offences] are from my care home and stuff. So if I were living with my family and stuff like that, they wouldn't have even called the police, it was just, but it's small stuff that's piled up and that's what basically led me to custody really* (Looked-after child, 1).

Some children placed away from their home area described occasions where they deliberately behaved in ways that might result in the police being called. As one told us:

*Aye, somewhere up north, no down south even. It was proper crap care though, because there was kids there right, but you didn't get to see any, and there was pretty much like two staff with you all the time. I ended up doing daft things there to get kicked out* (Looked after child, 36).

In such cases, if children progressed to more serious offending, they would have a longer list of previous formal criminal sanctions than their peers who were not looked-after. In such circumstances, where persistence of offending is as much a trigger for incarceration as the seriousness of the matters currently before the court, they would be at greater risk of receiving a custodial disposal (Jacobson et al, 2010).

### The allure of the street: a sense of belonging

Most of the looked-after children in the sample described pressures, largely associated with how they saw their care placements, which tended to propel them onto the streets more quickly than children who were not in care. It was important, from their perspective, that spending time on the streets was not simply a negative response to the experiences in the children's home; it also had the attraction of providing a sense of belonging which was not always provided by the care environment. As Emond (2014) has argued, where children are

acutely aware of the care status, the peer group becomes simultaneously a source of support and stress. One interviewee described how this quest for belonging could also lead to increased levels of offending in order to maintain the status required to survive on the streets:

*I guess I was looking for a sense of belonging really. I didn't really feel like I belonged anywhere.....so I was looking for a sense of belonging, and then I got a name for myself, and I just found I had to live up to it. Because people didn't accept me before, but because I've got this name now, then I had to stick with it and people accepted me by my name, not by who I was (Looked-after child, 13).*

Living up to a 'name' required children to adopt a veneer of toughness which increased the chances that they would engage in the types of street offending that make custody more likely.

For all children spending a significant amount of time on the street avoiding getting into trouble was challenging. But there were differences in how the behaviour was explained. Professionals often talked in terms of gang involvement or the potential for child criminal exploitation. Children's own accounts of their offending tended to deny gang affiliation and referred rather to friendship groups: *'because I don't really see it as a gang, I just see it as we're friends'* (Looked-after child, 4). Respondents did however recognise that rivalry between groups could be violent.

Such friendship groups took on a particular importance for some looked-after children who regarded them as akin to a substitute family. On the other hand, children not in care were, in retrospect, more likely to see the peers with whom they had been spending time as a cause of them getting into trouble in the first instance. On reflection some questioned how real those friendships were. As a consequence, it was easier for the latter group to determine that they would not associate with those same peers on release.

While most of the offending by those in the sample was a result of needing to find a way of safely negotiating their time spent on the street, there was a subtle difference between how looked-after children and those in care described the motivations for such behaviour.

Children in care were less likely than their peers to talk in terms of the ‘buzz’ associated with offending. For example, the excitement of escaping when being chased by the police was described in detail by one child:

*I just laugh at them, how the police officers chase me and they’ve tripped and literally looked at me and I’ve just stood there and just started laughing at them and then they try and jump up again and they tripped again and you just laugh at them from a distance. It’s like they’re out of breath trying to catch you and it’s just, it’s not happening (Child, not in care, 12).*

By contrast, being on the streets, and behaviours that were associated with that environment, was more commonly perceived as a logical consequence of the need to survive by children in care: as one made clear, it was about ‘*whatever I need money for, whatever... to go and buy food and stuff like that*’ (Looked-after child, 5). This focus was in turn fuelled by a sense that they needed to look after themselves in the absence of what they saw as an alternative supportive network.

### Relying on oneself

A common theme in the narratives of children in care was a sense that they needed to look after themselves because they could not rely on others to do so. In some cases, this was manifested as a lack of emotional attachment. As one respondent put it:

*I never used to stay in one place for [too long]. So, I don’t want to get myself like, attached....I just did everything to stop myself from getting attached. (Looked-after child, 14).*

Another child, who was placed in foster care, described being reluctant to become emotionally involved because that opened up the prospect of getting hurt.

*I don’t know why, but obviously I just don’t feel emotion to other people. I don’t even like being hugged really, stuff like that. I prefer if it people, like, I don’t know... Obviously people feel stuff for me. I’d prefer people not to care because I prefer to look after myself.... Because then you can’t get hurt can you really? .... No-one can disappoint you if no one cares about you? (Looked-after child, 8).*

This sense of detachment was a motivating factor for children spending as much time outside of the placement as possible. The above respondent described a typical day in the following terms:

*I get up and have a shower, clean my room, make my bed, go downstairs, make a brew, do my washing then I get my allowance. Go out, come back about six o'clock, get something to eat, or use my allowance to get some food, so I'll stay out even longer, until about half nine, come back, go to sleep, get up, do the same thing.*

Another child confirmed that he thought it was safer not to trust any adults and most young people: *'I don't know. I just don't like trusting anyone'* (Looked-after child, 10).

## Surviving custody

### Attitudes towards deprivation of liberty

As noted previously, the majority of children sentenced to custody in the Consortium area, in common with those across England and Wales, spend relatively short periods of time in the secure estate. As Charlie Taylor (2016:20) noted in his review of the youth justice system, such short custodial sentences *'break vital links with family, education and support services, and provide little opportunity for secure establishments to tackle the child's problems'*. At the same time, it was clear from interviews that children's experiences of custody were such as to make even a short sentence appear longer than an equivalent period in the community.

Nonetheless, a small number of children regarded the period in custody as an opportunity to make up for lost time in education or saw it as chance for a new start. One child, for instance, placed in an STC, was palpably excited by what he had achieved and by the potential that the future might hold:

*It's just like all the progress I've done while I've been here, like I come in with like no qualifications or anything, and now I've got like a CV and stuff with like personal training, fitness instructing, my GCSEs again, functional skills and stuff, done it* (Child, not in care, 15).

Another tried to look on the positive side: *'it's made me realise life's too short to lose'* (Child, not in care, 22).

More commonly, however, children expressed near universal dissatisfaction with the fact that they had been deprived of their liberty and custody was regarded as something to be endured. One interviewee described his feelings on going to a YOI in the following terms:

*I was like 'Oh, I'm in jail'. I knew that I couldn't go out, I was more gutted about the fact that I was just, I couldn't do 'owt... I just got on with my sentence and did it and got home* (Looked-after child, 5).

Another respondent, who had also been in a YOI, suggested that the experience of having to survive custody might make reoffending more likely on release:



*you can come out wanting to commit more offences because of the stuff you've seen and because of the ... survival instinct that goes into you while you're in there*  
(Looked-after child, 6).

For children in care, in particular, the impersonality of regimes in YOIs and STCs, where children have their clothes taken away and are called by their surnames, reinforced perceptions that the custodial system, in common with some of the children's homes which they criticised, failed to see them as individuals.

### The experience of custody

Discontent at loss of freedom was matched by children's complaints about their treatment while incarcerated. Perhaps unsurprisingly, given the differences between types of establishment outlined earlier in the report, children's experiences varied considerably according to where they were placed. Although the small number of children in the sample who served their sentences outside of YOIs makes comparison difficult, those who had been in secure children's homes, in particular, appeared much more likely to speak positively about the establishment. One child who had experience of both an STC and an SCH described the former as '*not nice. It's like a jail*' in contrast to his experience at the latter:

*'It's not like, it's not a jail.... You've always got stuff, you're always in a routine, you've always got stuff to do, you're never sat there bored.... if it wasn't for some of the staff at [the SCH], I probably would be, I wouldn't be thinking positive like I am now to be honest. For that six months, if I would have just gone to {the STC}, I would have come out the same kid. But now, I think I've come out and I've matured and I've kind of realised, it's not the way forward* (Looked-after child, 3).

More frequently children had little positive to say about their treatment in custody. Those in YOIs were generally critical about the amount of time that they had to spend in their cells, separated from other children, an experience which a recent thematic report confirms is widespread across all four of the YOIs in England (HM Inspectorate of Prisons, 2020). The inspection found that separation was frequently a consequence of loss of 'association' - leisure activities with other children - for poor behaviour or of demotion to 'basic', the

lowest level on the rewards and sanctions scheme. This picture was borne out by our respondents who talked of being isolated from their peers for up to 23 hours a day.

Children detained in the cells for lengthy periods complained particularly of boredom and having nothing to do. They described a range of different activities which they used to pass the time including cleaning their cell, exercising, reading, watching television, and talking to other children through the cell windows.

*To be honest, it was horrible but I had books and things so most of the time I just read or just doodled or something to try and pass the time* {Child not in care, 12}.

On occasion boredom could lead to behaviour that would attract further sanction:

*you'd get to the point where I'd just start graffiti-ing on the doors and on the walls and shit. And then it just, when you get put on basic, I don't feel like they should do basic because it's just, 'Well, you've put me on basic now so I'm definitely not going to behave like'* (Child not in care, 4).

Some respondents also described the impact of lengthy isolation on their mental health, echoing earlier research undertaken by the Children's Commissioner for England (2015). One child, who said that he was being tested for ADHD and autism, explicitly linked separation to self-harm.

*I used to self-harm in my pad, because they'd never let me out of my pad for about three or four days in a row. I'd have an outburst, a giddiness and they used to keep me in my pad, so I used to self-harm, just so I'd get the officers that would be nice to me* (Child not in care, 8).

Other children referred to having suicidal thoughts while confined to their cells.

A thematic inspection on behaviour management schemes found that the rewards and sanction schemes in YOIs and STCs placed too much emphasis on punitive measures and generated perceptions among children of differential treatment and a lack of fairness (HM Inspectorate of Prisons, 2018). BAME children in this study echoed this finding, with some suggesting that they were more likely to be placed on 'basic' and receive adjudications for allegations of rule breaking than their white peers.

A recent report by the Joint Committee on Human Rights (2019) has pointed to high levels of restraint in the secure estate for children and the excessive use of force, particularly in YOIs and STCs, where the deliberate use of pain to ensure compliance is allowed. Government statistics have also demonstrated annual rises in the use of physical restraint over the past six years (Youth Justice Board/ Ministry of Justice, 2019). Children in the current study provided evidence of what they considered to be the excessive use of restraint. One child described being restrained after refusing to return to his cell. He said he had been allowed to leave his cell in order to telephone his mother but, before he had an opportunity to do so, he was instructed to return. Injuries which he attributed to this episode - a carpet burn to his hand - were visible at the time of interview. BAME children perceived that they were more likely to be restrained than other children. Like other respondents, they appeared to have little faith in the complaints system.

*So, when I was restrained, I had my head down, he just got the keys and on the sly he just flicked it in my eye and hit me in the face... [I've complained] twice in the past, and nothing happens so I can't be arsed.... They say it goes on investigation, but nothing happens (Child not in care, 17).*

Relationships with staff were widely discussed. Echoing previous research which suggests that children distinguish between those working in the custodial estate who care about them and those who do not (Bateman, Brodie, and Melrose, 2013), children in this study described two groups of staff within custody: those who worked with them and showed respect, and those who did not. Where children felt disrespected, forming trusting relationships with an adult within custody was considerably more difficult and reliance on outside support was accordingly greater. This tended to disadvantage children in care whose support networks were, for the most part, less well established.

### Strategies of survival

In this context, strategies for surviving the period spent in the secure estate was a recurrent theme for interviewees. Two alternative strategies emerged, reminiscent of those identified by Wilson (2004) in his study of imprisoned young black men, which he described respectively as 'keeping quiet' or 'going nuts'. In conversations with us, children talked of

either keeping their heads down or, alternatively, fighting to maintain status and ensure safety. One child who had been in a YOI gave an example of the former strategy.

*Only mix with people if people approach you and they're alright with you, that's who you talk to, but people that try saying stuff, just ignore them* (Looked-after child, 1).

A very different technique was described by another respondent, also in a YOI, who made it clear that for him keeping his head down was not the best option.

*Yeah, mad, everyone had a problem innit so I had to be like more dangerous there than I was on out, just there's a defensive mechanism....* (Looked-after child, 6).

The two strategies were not mutually exclusive: some children engaged in both, keeping their heads down where possible but going into fight mode when necessary. BAME children appeared more likely to feel that they had to stand up for themselves and thus tended to adopt the latter strategy. This was also true of looked-after children, many of whom considered that it was important to establish themselves within the custodial environment, because they risked being exploited by other young people if they did not do so.

*... if you don't [fight], then that's how you just get [to be] a victim. If you show that you're not willing to stand up for yourself, then everyone's gonna think you're an idiot aren't they?* (Looked-after child, 5).

This anxiety that they would be victimised if they did not assert themselves appeared to reflect the fact that their care status determined, to a significant extent, looked-after children's identity; it exposed a lack of confidence by comparison with their non-looked-after peers. As a consequence it was more difficult for the former group to 'be themselves' in the custodial environment and made it less likely that they would look to the future and consider what might need to change if they were to avoid returning to a life that was largely orientated on the street when they were released. Professionals also recognised that children in care suffered from what might be described as a lack of 'social capital'. As one argued, they are the:

*'not haves: they do not have money, they do not have visits from friends and family'* (Professional, youth justice worker, 13).

By contrast, children not in care appeared to be more self-assured and therefore found it easier to 'keep their heads down'. As one explained:

*I know I've got everything I need so I don't need to prove 'owt and I'm not a fighting person so ... when it comes to it, if I need to fight then I'll fight... but I'm not instigating it. I'm here to get my sentence over and done with it'* (Child, not in care, 19).

Some children who were not looked-after considered that staying out of trouble while in custody was important because they wanted to ensure that their families did not worry about them getting hurt while they were inside. As one put it:

*my mum worries as it is, innit? She worries about my wellbeing, so I'd rather keep my mum happy, do you know what I mean?* (Child not in care, 12).

Links with the outside world accordingly had the potential to influence children's behaviour while in custody; for children in care such links were more attenuated. The imperative for self-reliance which was an important consideration for many of them prior to coming into custody was carried into the secure environment, making it more likely that they would feel the need to fend for themselves by attempting to establish a tough reputation. This was significant for their wider experiences in custody since fighting, as a strategy, involved a range of risks including demotion on the sanction and reward scheme, restraint and isolation.

### Maintaining contact with the outside world

Difficulties with maintaining contact with professionals, families and friends was a common feature for many children in the sample. The extent of the challenge, however, was in part determined by the nature of the establishment. Children in YOIs referred to the fact that access to telephones was limited to times when family members and friends might not be available. Cost was also an issue: *'It's 10p for a minute or something like that. It's like £6 pounds for an hour or something like that'* (Child not in care, 16). This was less of an issue for children in SCHs, who generally had access to telephones in their bedroom with calls to family and relevant professionals free of charge. At least one of the YOIs not covered by the current study, also provides telephones in children's cells.

There is an expectation that youth justice staff maintain a level of contact with children in custody consistent with supporting them through their sentence and to plan properly for their resettlement. Statutory guidance requires that where the child is looked-after at the point of entry to custody, social care staff should also maintain contact and conduct an assessment to ensure that appropriate support is in place on release. Although distance, and workloads, posed some difficulties, it was clear from interviews with professionals and from case files, that in most cases, staff made considerable efforts to ensure that these expectations were met. Moreover, interviewees reported that generally they were able to maintain contact with professionals while they were in custody. So far as the YOI within the Consortium area was concerned, it was apparent that the presence of a link worker in the establishment, funded by the Consortium, had improved working relationships considerably and this was confirmed by professional respondents. Nonetheless, interviewees reported problems with booking visits and cancellations at short notice. As one youth justice worker reported:

*You need 72 hours' notice to book a visit. To have a visit today, which is Thursday... my colleague didn't hear anything on Friday, she tried to contact them on Monday to see if the visits were booked, no answer.... So I made some phone calls because we go there quite regularly, to various workers to find out, I was able to get the number for the front desk at [the YOI]. They said 'the visits aren't booked'. It's a week since the request was sent (Professional, youth justice worker, 17).*

Professionals gave examples of where visits were cancelled by a YOI but the child was not informed and left to wait until the end of visiting time before being returned to their cell. Where this occurred, we were told, children felt that they had been let down by the worker, reinforcing feelings of isolation within the custodial setting. Professionals were also concerned that visits in YOIs were sometimes in the public visiting hall which made it difficult to speak openly with the child about potentially sensitive topics. Perceived differences between types of establishment were again apparent and this seemed to a function of the size of the facility and levels of staffing to facilitate visits: *'secure homes and STCs are much more flexible as far as booking visits are concerned'* (Professional, youth

justice worker, 17). The nature of these differences was captured by one professional who related a recent experience:

*I was in a Secure Children's Home on Tuesday. Got a kid locked up over there unfortunately and we were having his first meeting and one of his key workers came in and gave him a cup of tea and a biscuit, I thought 'wow, that's good'. I said to his mum on the way home, 'that would never happen in a YOI' (Professional, youth justice worker, 16).*

More generally, professionals confirmed that the name of the establishment conveyed an important distinction: SCHs were more likely to be regarded as 'homes' while YOIs were seen as 'institutions'. Some staff accordingly took the view that any child deprived of their liberty should be placed in the SCH: *'I don't believe anybody should be in prison under the age of 18'* (Professional, youth justice worker, 2).

Most children reported that they did feel supported by professionals while they were in custody. This was particularly true of youth offending team staff; many respondents clearly enjoyed good relationships with youth justice professionals. For instance:

*Because he's a YOT worker you more think of him as one of your friends. Not one of your friends you want to chill with and that, but he's a cool guy to chat to and that, I get on with him innit (Looked-after child, 40).*

As another said:

*I just get on well with workers, because I've been with YOT since 2013.... I've got a bond with most of staff (Child, not in care, 8).*

Children in care were frequently less positive about their relationships with their social workers with whom they tended to have less contact and who they saw as responsible for making decisions about them which they disliked. As a consequence they often did not consider the relationship to be a supportive one. This difference with children's perceptions of YOT staff appeared to be, at least partly, a function of the social work task combined with lower levels of face-to-face interaction. But other considerations played a part. As one child told us:

*My last social worker before the one I have now basically said to me I'd never make anything of my life and she, and I was worst kid she'd worked with.... Obviously it's*

*pissed me off, because like, who does she think she is? She's a social worker. The new one's alright, she just takes the piss, like every social worker, no matter who it is, just takes ages to do something. They say they're going to something about a month and it takes them about two months to do it* (Looked-after child, 9).

For children who were not in care, contact with family was a critical source of support that made surviving custody significantly easier. As one explained:

*Like if I were in here and my mum and dad didn't support me, wouldn't send me no money and that, I don't know how I'd cope to be honest...I just appreciate what they've done for me innit, and when I get out I'm going to change* (Child not in care, 19).

As this response suggests, being able to rely on external support made it more likely that children would focus on breaking away from their previous offending lifestyle.

In stark contrast, looked-after children tended not to talk about the support (or lack of) that they received from their families. Where they did discuss family, it was frequently in a negative context. One for instance asserted: *'I don't care about mum and dad... I don't see them so I don't care'* (Looked-after child, 10). The absence of a network of support in the community reinforced perceptions that it was important to be self-reliant in custody, exacerbating the risk that survival would be achieved through displays of aggression and that children would be less invested in thinking about how they might effect future change. Given the importance of a sense of agency in achieving desistance from offending highlighted in much of the literature, such perceptions made successful resettlement more difficult for looked-after children.

The lack of familial contact also highlights the importance of the establishment of a strong professional network to support looked-after children while they are in the secure estate. It was particularly important, as Hart (2006) has found, that children felt that workers in the community did not *'forget about'* them while they were inside. As noted above, children in care did appreciate the support that they had from professionals but where visits were



primarily timed to coincide with planning meetings, which many children regarded as a formality, they were less inclined to consider that this was indicative of genuine care.

## Surviving Resettlement

### Going 'home'

Guidance on resettlement (Youth Justice Board, 2018), in accordance with evidence from research (see for instance, Hazel et al, 2017) stresses the importance of planning from the start of the sentence to provide 'seamless' support for children while they are in custody and on release into the community. In this context, effective resettlement is seen as a process wherein the child is given both practical and personal or emotional support to facilitate a 'shift in identity'. The focus of this shift is to enable the child to develop a vision of how they can work towards a positive future that involves them moving away from an offending lifestyle. Resettlement plans should be 'co-created' by professionals and children in recognition of the fact that the latter will only engage with services where they understand the benefits for themselves and can see that it will help them to achieve goals which they have set for themselves (Bateman and Hazel, 2013).

In the current study, 17 of the 48 children were interviewed in the community, shortly after release. This group was accordingly able to reflect on the process of transferring to the community and progress in the interim period. Interviews with the other 31 children were conducted in custody and accordingly explored resettlement work in the secure estate, plans for release and future hopes and aspirations.

Perhaps unsurprisingly, all of the children who were not in care at the point of sentence wanted to return home to live with their family and most of them anticipated that they would be able to do so. Case files indicated that, in several cases, things did not go to plan and the child was staying with friends but more frequently accommodation was not a major concern for this group. Looked-after children also, for the most part, expressed a desire to return to the family home or, at least, to be placed nearby but many of them recognised that this was unlikely to happen. While this difference between the two groups was significant in its own right it was also inevitably manifested in how children regarded their future after custody.

Children who were confident that they would be living with their family were able to focus on other aspects of their life on release. Family support allowed them to develop a range of plans for how they would conduct their future, such as re-entering education or considering what forms of employment might be open to them. As a consequence, the transition from custody to the community was perceived as a 'window of opportunity' (Bateman et al, 2013) through which children could view their prospects with a degree of optimism, imagine a life that was not based around the street, and start to construct a different identity for their future selves. One child articulated this in the following terms:

*I always used to say to them oh I want to change but I never meant it like how I mean it now, you know what I mean? (Child not in care, 28).*

Others reported tangible plans which they had already made for their life after release. As one told us:

*I'm going to go with my uncle, because he works for Eddie Stobart, and he said that I can have a go with him, and that's like £10 an hour, so I like the sound of that (Child, not in care 15).*

For children in care by contrast, the issue of accommodation, where they would be living on the day of release and in the period immediately after, was the most pressing concern that pushed other consideration to the side-lines. Survival was uppermost in their minds. In this context, release was often viewed as a 'window of threat' that confirmed children's perception that they would once again have to be self-reliant. Not infrequently such fears were realised. In practical terms, the absence of a suitable address made it less likely that looked-after children would be eligible for release on temporary licence, a provision which is frequently regarded as a prerequisite of successful resettlement (Bateman and Hazel, 2015).

Professionals confirmed that the local protocol across the Consortium area, which requires that a child's accommodation should be identified at least two weeks prior to release, had led to improvements. Youth justice staff in particular considered that it was helpful in holding children's care to account. But it was also evident that the protocol was not a panacea. Interviews and case records confirmed that finding suitable placements to which children could be released continued to be problematic on occasion; we were told of cases

where children did not know where they would living until a few days before their release. In some cases, looked-after children were placed in bed and breakfast accommodation in spite of government guidance that such accommodation should only be used as last resort. It was equally apparent, from case files and interviews, that where children did not have access to accommodation which they regarded as suitable or thought that placements had been arranged which did not take into account their wishes, there was an increased chance that they would abscond, thereby returning to spending considerable periods of time on the street, and an associated offending lifestyle.

One child described being transported to a semi-independent flat by his care worker on release only to discover that it was already occupied; as a consequence, he spent a number of weeks in bed and breakfast. Another talked about the pressures of being placed in temporary accommodation and subject to regular moves as a consequence of the placement not being a registered home:

*I was in a semi-independent, called 16+. So it's called 16+ but I was 15. So basically, I was in a house for 28 days and then I'd have to go, move to a different property every 28 days because if I was there for longer than 28 days, then they'd have to register as a care home, or residential home or something like that. So, every 28 days I was moving about (Looked-after child, 3).*

The same interviewee reflected on the implications of this instability for his compliance with the conditions of post-custody supervision which required him to report to the YOT on a daily basis since he was subject to 'intensive supervision and surveillance' as a consequence of being assessed as being a high risk of reoffending:

*... at the same time, I got seven days a week and at the same time I've got a tag. Obviously I'm flipping 15, I'm not Superman.*

The risk of non-compliance, and a return to custody, in such cases is clear and may help to explain the finding from the tracker data that, across the Consortium area, looked-after children are more likely to be breached than their non-care counterparts.

### Looking back or going forward

The nature of resettlement support provided by youth offending teams was criticised by some children who told us that interventions consisted largely of one-to-one sessions completing offence-focused worksheets. The limitations of such interventions have been highlighted by previous research (Hazel et al, 2017) but also emerged as a strong theme in some of the interviews. In particular, children intimated that they did not want to dwell on past mistakes and preferred to focus on a positive future. In this sense, children's narratives were consistent with messages in the literature which outline the importance of professionals providing practical and personal support to facilitate a shift in the child's identity in order to effect a break with the lifestyle which they had adopted prior to incarceration. This criticism of some resettlement practice was expressed by one child in the following terms:

*Because it's not letting you forget about the frame of mind what you were in, so you're constantly in that frame of mind because you're constantly reminded (Child, not in care, 19).*

Professionals were also aware of the potentially counterproductive nature of offence focused work and were committed to providing support that enabled children to move forward. As one suggested, there was a danger that focusing on the offences a child has committed would keep them:

*looking over their shoulder at their past, when all they want to do is to look forward and consider how to lead a crime free life (Professional, social care worker, 15).*

The significance of looking forward for successful resettlement was highlighted by another child whose offending had been associated largely with his drugs habit. He spoke of his determination to break his ties with his previous associates.

*I don't want to feel like that again... I'd be looking at myself and thinking I'm losing weight, I look bad, I don't look good for myself. Now I feel like I look good if you get what I mean, there's brightness in my face. But then when I look back at them and I think I definitely don't want to go back there again, I don't want to, I don't even want to chill with them no more ... Because now I'm not chilling with them, I haven't got any grafting. I mean yeah, college is helping me look at life differently (Child not in care, 11).*

As noted above, achieving a shift in identity was harder for looked-after children who frequently appeared resigned to returning to a life spent largely on the street. However, where they had settled accommodation and felt that they had sufficient support to enable them to focus on issues other than immediate survival, a sense of optimism was discernible. One interviewee who knew where he would be living on release described how he had left offending behind him:

*My social worker, she said to me when she came to visit me, she said to me, 'You're going to go there when you come out' and I said, 'Oh cool'....Right now, obviously I'm at college, but I'm on holiday now and going back in September, doing next level, level two, I'm doing bricklaying. [I'm not in trouble any more] That's old.... I'm an adult. I don't know, you've got a responsibility (Looked-after child, 4).*

Social workers and youth justice staff both understood the potential importance of providing practical and personal support to children when they left custody. Professional interviewees regularly referred to importance of consistent relationships with children and advocating on their behalf. They also acknowledged that pressure of workloads, a shortage or suitable placements for children in care and a focus on managing risk meant, in combination, that this was not always easy to deliver in practice.

## Discussion: doing survival or developing a survivor identity

The current study seeks to explore the pathways of children into and out of custody and establish the extent of similarities and differences, between the trajectories of looked-after children and those who are not in care. The findings confirm that children sentenced to custody tend to display a range of shared characteristics, irrespective of care status. This is perhaps unsurprising since children deprived of their liberty through the youth justice system represent a very small proportion of both the general child population and of the care population, even if the latter group manifests a high level of representation in the custodial estate. Moreover, the distinction between the two populations is less clear cut than might sometimes be assumed: in our sample, nearly of all the children who were not in care at the point of sentence had had considerable previous contact with children's services and had, at some point, been designated children in need.

The overwhelming majority of children entering custody had extremely troubled backgrounds and had experienced high levels of instability in terms of their home life and accommodation. Disrupted education was extremely common and many of children in the sample had either been excluded or had disengaged completely from schooling. As a consequence, they had little to do during the day when their peers would be occupied in class. Spending substantial periods of time outside of the family home, which for many was not a particularly welcoming place, was a typical response to these two common factors. Being on the street had become a way of life for many of those we interviewed and it was a lifestyle that inevitably brought them into close association with other children in similar circumstances whose presence amplified the attraction of street life and provided a sense of camaraderie and self-worth. At the same, it increased significantly the likelihood that children would engage in particular forms of behaviour – many of them illegal and potentially involving violence and possession of weapons – that were associated with surviving in that environment in order to obtain material goods and sustain status and a positive sense of identity. Such behaviours, and the increased visibility of groups of children congregating outside during the day, intensified the prospects that they would have regular contact with the criminal justice system. The serious nature of some of the offending,

deriving in part from the need to develop a street persona, ensured a high tariff response from the courts, particularly for those individuals who had accrued an extensive criminal history. In this sense, it was possible to discern a common pathway that led from the street to the prison down which many of the children in our sample had travelled.

Where that trajectory was followed, children's experience in the custodial estate was for the most part a very negative one, although the small number of children in the sample who had been in secure children's homes tended to be much more positive about their placements. Most interviewees, however, in line with the national and local picture, served their sentences in young offender institutions and, for the most part, they described an environment where deprivation of liberty was something merely to be endured. Contact with families and friends was restricted and external professional support welcomed but often not at a level which the children would have liked. What was regarded as excessive, and sometimes unfair restraint, was exacerbated by the significant amount of time that children spent in isolation, particularly where they were confined to their own cells for much of the day.

The transition from custody to the community, while providing a locus that concentrated the minds of many of the children on the potential for change, was challenging for most, especially where settled accommodation or family support was lacking and in these circumstances the risk of a resumption of a lifestyle on the street, punctuated by further brushes with the law, was high. Children were critical of forms youth offending intervention that relied on offending behaviour work which they considered to be backward looking, highlighting the identity of the person that they hoped they might be able to leave behind when they returned to the community. Help with practical issues, emotional support and encouragement with positive future goals were valued much more highly by children and where good relationships with professionals had been established, it was generally associated with such forms of intervention and a perception that staff were willing to 'go the extra mile' rather than simply doing their job.

But if surviving the pathways into, through and out of custody was challenging for all children, it was clear that those who were looked-after faced particular difficulties that



made it more likely they would come to the attention of the criminal justice system, receive a custodial sentence, and have negative experiences within the secure estate. Children in care were also less likely to see their future prospects in a positive light. While some of these differences may have been explicable in terms of their circumstances which had necessitated them becoming looked-after, it was also apparent that some features of the care experience itself were associated with poorer outcomes. Given the complex histories of the children who took part in the study, a full explanation of their trajectories would inevitably draw on a broad range of interlocking dynamics, some of which have been described in the previous sections of the report. It is nonetheless possible to identify what appeared to be the most significant factor that impacted disproportionately on looked-after children at each of the chronological phases that were explored.

- First, in the period prior to incarceration, placements in residential units at a considerable distance from the child's family and community tended to propel children in care onto the streets more readily than their peers who lived with their own family. The lifestyle associated with being out of home and school encouraged engagement in a range of offending behaviours that placed children at risk of custody.
- During the custodial episode, looked-after children suffered from a lack of familial support by comparison with those who were not in care. While their care status ensured that they were more likely to have contact with social work, as well as youth justice, professionals, those relationships were unlikely to provide adequate compensation. This relative absence of external sustenance confirmed for this group that being looked-after set them apart from other children with a consequence that they tended to adopt a different strategy for surviving custody: fighting rather than keeping their head down inevitably led to higher levels of restraint and isolation, leading to a negative cycle in which physical confrontations with staff became more likely.
- Finally, the process of resettlement was in many cases dominated by the issue of where the child would live on release, making it considerably more difficult for

looked-after children to reflect more broadly on how they might construct a positive future for themselves or to take advantage of practical or emotional support that professionals were able to offer.

As a consequence, in spite of a considerable overlap between the backgrounds and experiences of all children in the sample as they passed into, and through, custody, children in care exhibited trajectories that were distinct in important ways. While all children could legitimately be described as exhibiting strategies for survival at each stage of their journey, these strategies came to have a different meaning for children in care, becoming an integral part of their identity. The perceived need for looked-after children to be self-reliant because of what they understood to be an absence of adequate support from adults, both professional and familial, and their involvement in a care system where decision-making appeared to take little account of their wishes, meant that they did not just behave in ways that ensured their survival in whatever context they found themselves; they were also more likely than other children to develop a *survivor mentality*. Their identity was, in important ways, constructed around a conception of themselves as having to make their own way in the world, whatever that might involve, allowing less space for consideration of their place in the wider world and how they might build a positive role for themselves within it.

Looked-after children were not, therefore, lacking in resilience; indeed identifying oneself as a survivor requires considerable strength and confidence in one's own abilities. At the same time, the particular form that this resilience took required a focus on the here and now rather than facilitating a future orientation; it meant that children were more likely to be resistant to potential offers of external support because of a fear that they would expose themselves to being let down; and it encouraged a return, on release from custody, to an environment where the children felt comfortable and a lifestyle with which they were familiar. A survivor identity thus made desistance from offending less likely in the short-term because of the perceived risks of failure associated with the changes, and potential reliance on others, that an alternative future required. As Stein (2008) has noted in respect of care leavers, 'survivors' may be less well equipped to 'move on'. Overcoming this survivor mentality may require that services recognise its significance and provide additional support if children, who are enmeshed in both the care and custodial systems, are to be empowered

to develop identities that are conducive to leaving street life and the associated offending behaviour behind them (Hazel et al, 2017).

## Conclusion and recommendations

Findings from the current study confirm, and further illuminate, the existing body of evidence in relation to the incarceration of children in England and Wales. In summary:

- The majority of children sentenced to custody have unsettled backgrounds, characterised by disadvantage, and exhibit high levels of welfare needs.
- Looked-after children are over-represented in the children's custodial estate.
- For the majority of children placed in YOIs and STCs, the experience of custody is largely negative, a lost period with little rehabilitative value that serves to further sever already attenuated links with home, education and community. Children's treatment within those parts of the secure estate is characterised by high levels of restraint and extensive use of isolation.
- Albeit that numbers in the current study were small, children placed in secure children's homes tend to report more positively about their experiences, describing a caring environment, consistent with the philosophy of those organisations.
- During the period of detention, maintaining contact with the outside world is extremely important for children, both as a source of support and as a prerequisite of being able to plan for the future once released into the community.
- There are considerable challenges for providers of resettlement services. Children tend to regard the transition from custody to community as a window of opportunity but this window can close rapidly where work in custody has not focused on preparation for release, appropriate support in the community is not available, and post-custody interventions do not build on any progress made in the secure estate.
- Along the pathways into, through and out of custody, how children see themselves – how they construct their identities – is a powerful influence, albeit mediated by external and systemic factors, for determining future outcomes.

In these circumstances, a range of recommendations made elsewhere would appear to have continued relevance. Considerations of space preclude attempting to rehearse such recommendations in detail, but they would, for instance, include:

- Children's services and education should develop a range of services for vulnerable families to reduce the chances that children will drop out of education and come to the attention of the youth justice system (see for instance, Jacobson et al, 2010).
- Youth justice and other agencies should develop a range of strategies to reduce further the level of child imprisonment (see for instance, Nacro, 2005; Bateman, 2005); legislation should be introduced to narrow the circumstances in which children can be deprived of their liberty through criminal proceedings so that custody is genuinely a last resort (see for instance, Standing Committee for Youth Justice, 2010).
- The recommendations to reduce the criminalisation of children in care made by the Laming (2016) Review should be adopted in full and local authorities should implement, as a matter of urgency, the national protocol on reducing such criminalisation published by the Government (Department for Education et al, 2018).
- The use of YOIs and STCs for children should be discontinued as recommended by the Taylor (2016) review, a proposal accepted in principle by the Government.
- Local authorities should ensure that they meet the expectations of guidance on levels of contact with children in the secure estate, and facilitate contact between children and their families.
- The range of good practice guidance developed by the *Beyond Youth Custody* programme in relation to the resettlement should be adopted by the children's care and youth justice services (<http://www.beyondyouthcustody.net/resources/publications/categories/all/>). In

particular, the proposed model of practice that focuses on supporting the child to develop a pro-social identity should underpin work with children in custody and on release (see for instance, Hazel et al, 2017).

However, a number of findings from the current research are, arguably, less familiar and suggest a set of recommendations that go beyond those described above.

#### Finding 1

The quantitative data analysed for the study suggested that looked-after children differ in certain respects from their peers who are not in care. As might be anticipated, given their care status, the former group had higher levels of assessed needs. At the same time, children in care tended to receive, on average, shorter sentences than their non-care counterparts for offences that are, generally, of lower gravity. In combination, these findings suggest that looked-after children were more likely to be sentenced to custody for persistent rather than serious offending, meaning that when they appear before the court they may have a longer list of previous convictions. Although further research would be required to confirm this hypothesis, they may also suggest a possible use of detention ‘for the child’s own good’ where robust alternative care plans were not put before the court, given the high level of welfare need evident in the looked-after cohort and the difficulties in providing accommodation in the child’s home area.

#### Recommendation 1

The above set of findings derive from a bespoke dataset established by the South and West Yorkshire Resettlement Consortium that allows exploration of potential differences between cohorts of children sentenced to custody. In order to minimise the use of custody for looked-after children, and to ensure the best possible service to children in care who are deprived of their liberty, it is important that local areas develop databases that are able to capture relevant information to facilitate analysis of the custodial cohort at a local level. Local authorities should conduct regular thematic audits of children sentenced to custody with a particular focus on looking at differences between children in care and those who are not.

### Finding 2

For nearly all children in our sample, the pathway to custody was one whose origins lay in them spending considerable periods of time out of education and out of home. The adoption of a 'street lifestyle' frequently involved forms of behaviour that were likely to bring children into contact with the criminal justice system. Moreover the forms of offending associated with 'surviving the street' were typically of a sort that tended to attract higher tariff sentencing, and thereby involved an enhanced risk of custody.

### Recommendation 2

If the risk of custody is closely linked to spending time on the street, local agencies should consider how best to support groups of children engaged in a street lifestyle in order to ensure that they have access to constructive activities and, wherever possible, are re-engaged in education or training. The development of a detached youth provision, where professionals seek to engage such children in the environments where they congregate and feel safe, might form an important element of a strategy to address this issue.

### Finding 3

Aspects of the care experience appeared to make it more likely that looked-after children would make their way onto the streets. This was particularly true where children were placed in residential provision a considerable distance from their home area, often against their wishes.

### Recommendation 3

In order to reduce the over-representation of looked-after child in custody, local authorities should ensure that they meet their statutory duty to secure sufficient accommodation to meet the needs of their looked-after population within the local authority area 'except where there is not consistent with their welfare' (Department for Education, 2010). To comply with this duty will, in many areas, require the development on additional 'in house' residential children's homes.

Where placements out of area are unavoidable, children's services should ensure that additional local support is in place to reduce the risk that the child will go missing, provide a range of constructive daytime and evening activities in accordance with the child's wishes and interests, and develop a clear strategy for maintaining links with professionals, family, friends and community in the home area.

#### Finding 4

Maintaining links with the outside world was extremely important for children while they were in custody. In this regard, children in care considered themselves to be, and frequently were, at a disadvantage by comparison with those who expected to return home on release since relationships with family were often less consistent and more attenuated for the former group. In this context, contact with professionals took on an additional significance for looked-after children who tended, in the absence of external support, to become increasingly self-reliant, leading to perceptions that they needed to fight to stand up for themselves in order to avoid victimisation rather than keeping their head down.

#### Recommendation 4

In addition to meeting expectations laid down in guidance in relation to maintaining contact with looked-after children while they are in custody, youth justice and social care staff should prioritise 'informal' visits that are not linked to planning meetings as these are perceived by children as demonstrating a level of genuine care.

Professionals participating in the study considered that the presence of a link worker in the custodial setting made it easier to maintain contact with children on their caseload. Local authorities with a custodial establishment in their area should accordingly consider establishing similar link worker posts.

#### Finding 5

In line with previous research, the current study highlights the importance of clarity in relation to where children will be living when they return to the community, at a relatively early stage, to enable them to focus on other aspects of their own rehabilitation. The identification of stable accommodation on release was particularly problematic for children in care. Nonetheless, while recognising ongoing challenges, professionals confirmed that the



existence of a local protocol, with buy-in from Directors of Children's Services across the Consortium area, requiring that a suitable address was identified at least two weeks prior to release had had a positive impact.

#### Recommendation 5

Local authorities should consider the development of a protocol on the identification of stable accommodation for looked-after children in custody at least two weeks prior to release. Children in care should be involved, from an early point in their sentence in discussions about where they will live so that they feel assured that suitable accommodation will be found and that their views have been listened to and taken into account.

#### Finding 6

Children in care appeared to be more likely than their peers to be breached for failure to comply with the conditions of post-custody supervision and were, therefore, at a higher risk of being returned to custody. In at least some cases, non-compliance was associated with unstable or unsuitable accommodations and the intensity of contact required with the YOT as a consequence of the child being assessed as a high risk, itself an indicator of increased levels of welfare need.

#### Recommendation 6

Youth justice services should monitor levels of breach to determine whether particular populations of children, including those who are looked-after, are disproportionately subject to proceedings for non-compliance. YOTs should consider the introduction of a presumption against breach of post-custody supervision for children in care.

#### Finding 7

One of the over-arching themes to emerge from the current research was that children's pathways into, through and out of custody can helpfully be understood in terms of strategies that disadvantaged and vulnerable children create in order to survive in what they experience as hostile environments. For a range of systemic reasons, the focus on survival

tended to take on a particular significance for children in care, who felt that they had to be self-reliant because they had less support and fewer people who cared about them. This led them to adopt slightly different strategies to those developed by children who were not in care, including for example, fighting rather than keeping their heads down in custody and focusing on what would happen in the short-term on their release from the secure estate rather than making plans for their longer-term future. While all children in the sample provided examples of 'doing survival', looked-after children were more likely to describe what, we have termed, the embodiment of a 'survivor mentality' in which being a survivor, relying on one's own resources, became an important part of their identity.

#### [Recommendation 7](#)

The Beyond Youth Custody model of resettlement (Hazel et al, 2017) has highlighted the importance of services providing practical and emotional support to children that will empower them to develop a sense of identity consistent with future ambitions for positive achievement and leaving their offending behind them. In engaging in such work, practitioners should be aware that the dynamics associated with being a looked-after child in custody may have significant implications for how they see themselves and their future prospects. Effective work with such children may involve building on the resilience associated with being self-reliant while recognising that where a survivor mentality is a powerful aspect of a child's identity, the process of fostering a shift in identity may be more complex than in other circumstances.

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