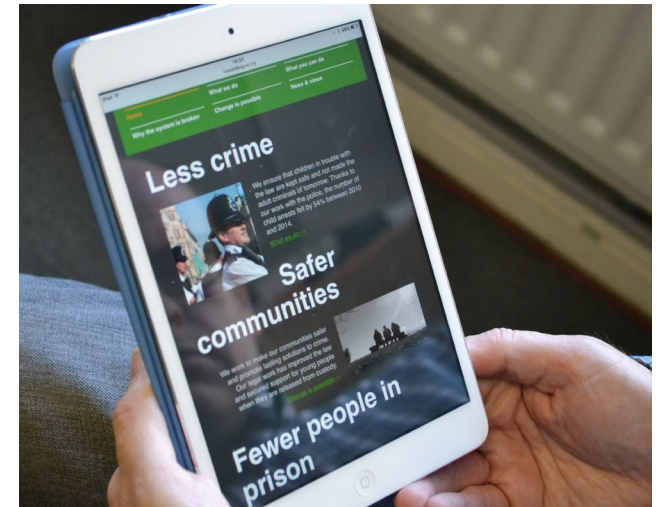


**The Howard League programme to prevent  
the unnecessary criminalisation  
of children in residential care**

**Andrew Neilson, Director of Campaigns**

# The Howard League for Penal Reform

- England and Wales, since 1866
- Less crime, safer communities, fewer people in prison
- Policy, research and campaigning
- Legal advice line and direct legal work with under 21s in prison
- Membership organisation - no government funding



# Programme background and overview

- The Howard League programme to end the unnecessary criminalisation of children in residential care has been running since 2016
- It developed out of our campaign to reduce the numbers of child arrests
  - 2010 – c. 250,000 child arrests p.a.
  - 2019 – c. 72,000 child arrests p.a.\*
- We worked closely with police forces to understand why children were being arrested
- Invariably, the police raised issues around residential care, saying that some homes were calling them too often and for things that a parent wouldn't call the police over

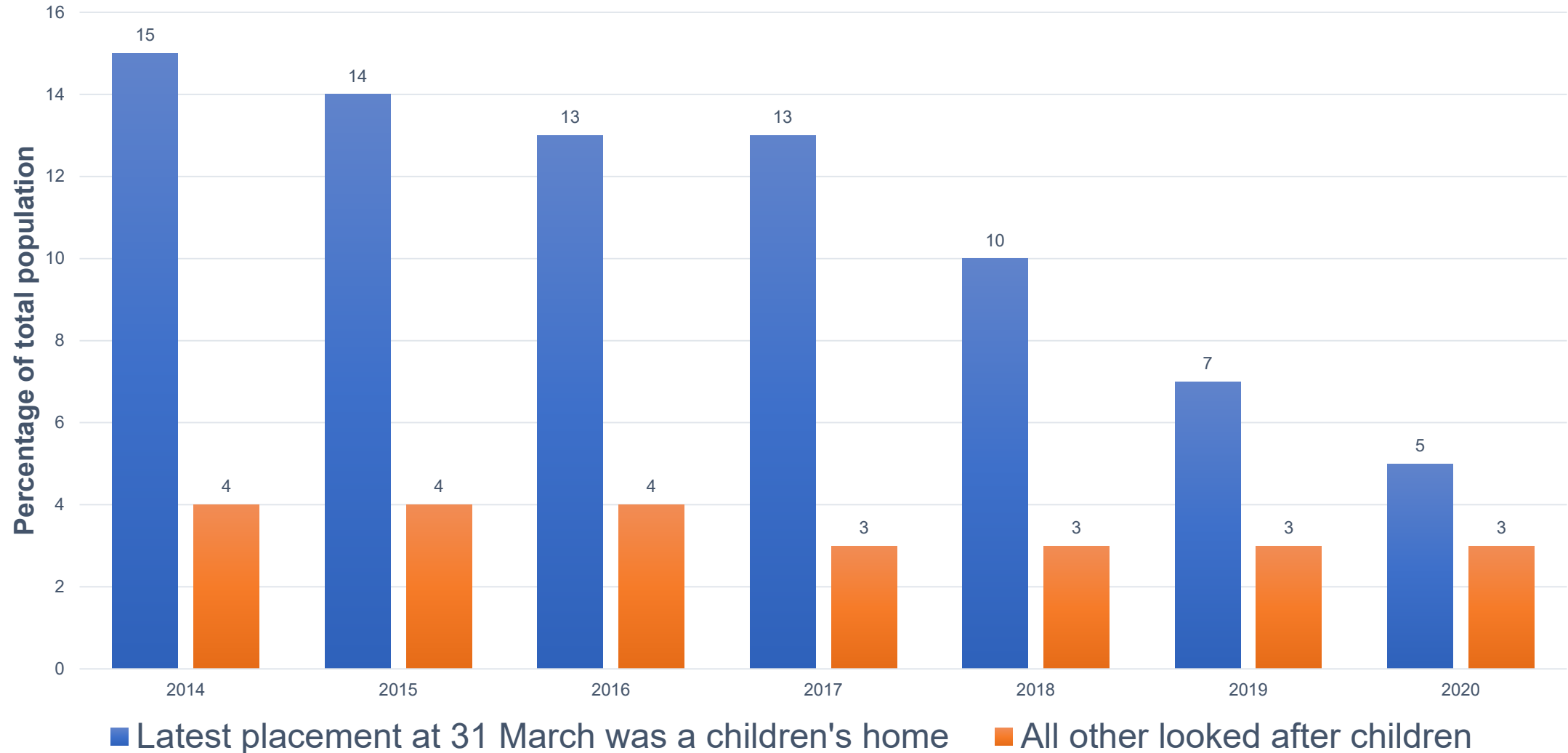
\* <https://howardleague.org/wp-content/uploads/2020/12/Child-Arrests-2019-FINAL-online.pdf>



# Headline findings

- Children living in residential care were being disproportionately criminalised compared to other children, including those in other care placements, such as foster care
- There were very high levels of police involvement with some children's homes
- Children in residential care were being criminalised unnecessarily and unfairly and for low level offences that parents would not have called the police over

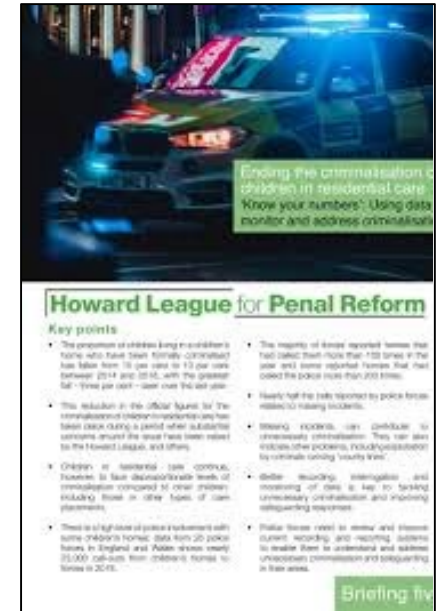
## Rates of criminalisation of children in care



Data includes children looked after continuously for at least twelve months at 31 March aged 10 to 17 years and who were convicted or subject to a youth caution (incl. a youth conditional caution) during that period of care

# High levels of police involvement with children's homes

- We asked forces to tell us how many times they had been called out to children's homes in 2018
- 26 out of 43 forces provided data
- They told us about 23,000 call-outs from children's homes in 2018
- Over 50% of forces reported homes calling over 100 times a year and several reported homes that had called over 200 times
- Over half the call-outs related to children going missing



# Care experience and custody

- Over 50% of children and young people in child prison (YOIs and STCs) have been in the care of the local authority\*
- 24% of a cohort of nearly 4,000 adult prisoners reported care experience\*\*
- HM Inspectorate of Prisons (2021) *Children in custody 2019-20*. London: HMIP

\*\* Ministry of Justice (2013) *The factors associated with proven re-offending following release from prison: findings from Waves 1 to 3 of SPCR*. London: MoJ

# Causes of criminalisation


- Trauma and vulnerability
- Systemic issues in the care system e.g. placement instability, poor placement planning, lack of services, unregulated provision, out-of-area placement
- Inadequate or inappropriate responses to children's needs and behaviours by adults
- Every professional who comes into contact with the child has a part to play in protecting the child from criminalisation and ensuring they are supported



# More teenagers with complex needs coming into care

*“Across England, there has been a 26% increase in the number of 13-17 year olds entering care between 2012/13 and 2018/19. The result is that more than a third of the children who entered care in 2018/19 were teenagers – often with complex needs and vulnerabilities the care system itself finds difficult to help. Compared to younger children in care, teenagers in care are 50% more likely to have an Education, Health and Care Plan, ten times more likely to have attended a pupil referral unit, and six times more likely to be living in a residential or secure children’s home.”*

Children’s Commissioner (February 2021) *Characteristics of children entering care for the first time as teenagers*. London: Office of the Children’s Commissioner



**Ending the criminalisation of children in residential care**  
Briefing one

### Howard League for Penal Reform

**Key points**

- Looked after children living in children's homes are being criminalised at an alarmingly high rate compared to other children, including children in other types of care. Children aged 10 and 17 living in children's homes are at least 15 times more likely to be criminalised than other children of the same age.
- Seventy-one per cent of children living in children's homes who were criminalised in 2015/16, for whom data is available, were found to have emotional and behavioural health that was of borderline or actual concern.
- Seventy per cent of children who were criminalised in children's homes in the year to 31 March 2016 had been taken into care because of acute mental illness, mental health problems, learning difficulties, physical disability or acute learning difficulties.
- The Howard League has been working with many young people who have experienced the range and level of difficulties and disadvantage children living in children's homes commonly face. These include abuse and abusive relationships, lack of stability, and mental and emotional health problems.
- The stories of children criminalised in residential care reveal that contact with the criminal justice system is often preceded by multiple experiences of rejection and the anger that arises from feelings of rejection. These typically include the events that lead to them coming into care and within the care system.
- Frequent placement moves and other instabilities, such as changes of social worker and school, exacerbate feelings of rejection. Children's homes and the police need to be aware of the damage done by compromised relationships and to respond appropriately to behaviour arising from it. These children need acceptance, stability, help and support, not criminalisation.
- Like any child, children who are criminalised want things in children's homes that give them the potential to live fulfilled and successful lives. Opportunities are being missed to recognise their potential and to provide the environment and support to enable them to thrive.



**Ending the criminalisation of children in residential care**  
Briefing three: 'Hearts and heads' – Good practice in children's homes

### Howard League for Penal Reform

**Key points**

- Children in children's homes are being criminalised at an alarmingly high rate compared to other children.
- The 'hearts' principles consider the emotional needs of children and include: a child-centred culture which is opposed to criminalisation; good parenting and the question 'Would this be good enough for my child?'; a family environment; listening to children and treating them with dignity and respect.
- The 'heads' principles deal with the business side of running a home and include: robust matching and managing of moves to the best possible placement; training, learning and supporting staff; protocols to prevent unnecessary use of the police.
- We have identified some core principles that can help protect children from criminalisation. We group these into two categories: 'hearts' and 'heads'.



**Ending the criminalisation of children in residential care**  
Know your numbers: Using data to monitor and address criminalisation

### Howard League for Penal Reform

**Key points**

- The proportion of children living in children's homes who have been formally criminalised has fallen from 18 per cent to 12 per cent between 2014 and 2016, with the greatest fall – three per cent – seen over the last year.
- The reduction in the official figure for the proportion of children criminalised over the last two years may be a result of additional work done around the data but more needs to be done to reduce the number of children who are criminalised.
- Children in residential care continue to have to face alarmingly high levels of criminalisation compared to other children criminalised in other types of care.
- There is a high level of police involvement with some children's homes: data from 20 police forces in England and Wales shows nearly 25,000 call-outs from children's homes to homes in 2016.
- The majority of those reported by police forces are for missing incidents.
- Missing incidents can contribute to criminalisation. This can also happen when children are not supported by suitable learning activities.
- Police training, intelligence and awareness of what is happening in residential care is essential to supporting safeguarding responses.
- Police forces need to review and strengthen current working and reporting systems to make them more effective and address unnecessary commissions and enquiries to their areas.

**Briefing five**




**Ending the criminalisation of children in residential care**  
Briefing two: best practice in policing

### Howard League for Penal Reform

**Key points**

- Police forces are receiving high levels of call-outs from some children's homes, a significant proportion of which they regard as inappropriate. In response to this, many forces are developing innovative practices to reduce unnecessary criminalisation and demand on police resources.
- Police officers can improve or exacerbate the problem. Forces that have implemented child-focused policies are leading the way in developing appropriate and effective responses.
- Data collection and management is fundamental. The forces making the most dramatic progress in reducing the criminalisation of children in children's homes have all taken steps to understand and monitor the issues using data available within the force.
- Forces that have worked closely with children's homes to highlight issues and provide guidance, for example on behaviour management and the homes' parental responsibilities, have been able to reduce inappropriate call-outs.
- Multi-agency working is essential to put in place the structures and support needed to address factors leading to the criminalisation of children in residential care.
- Working in partnership with local child protection inspectors can provide regulatory force for improving practice in individual homes.
- There is a difficult balancing act to be had between breaking down barriers to improve relations between police and children and engaging children to improve relationships with the police which might contribute to a process of criminalisation. The best practice homes have all taken steps to understand and monitor the issues using data available within the force.
- Forces that have worked closely with children's homes to highlight issues and provide guidance, for example on behaviour management and the homes' parental responsibilities, have been able to reduce inappropriate call-outs.



**Ending the criminalisation of children in residential care**  
This is our story: Children and young people on criminalisation in residential care

### Howard League for Penal Reform

**Key points**

- This briefing tells the untold stories of four children and young people who have been criminalised in residential care in their own words.
- Edie describes how a care worker's response to a self-harming incident in a night room led to her being criminalised and to her being taken into care.
- Steph explains how violence and isolation, alongside ongoing staff, led to a criminal record.
- The young people's testimonies illustrate how every aspect of the care system can impact on criminalisation and demonstrate that a whole system approach is needed to protect vulnerable children from this form of harm.
- Samantha highlights the link between going missing and police contact and evidence the trauma suffered by children experiencing multiple placement moves.

**Briefing four**



**Ending the criminalisation of children in residential care**  
Victims not criminals: protecting children living in residential care from criminal exploitation

### Howard League for Penal Reform

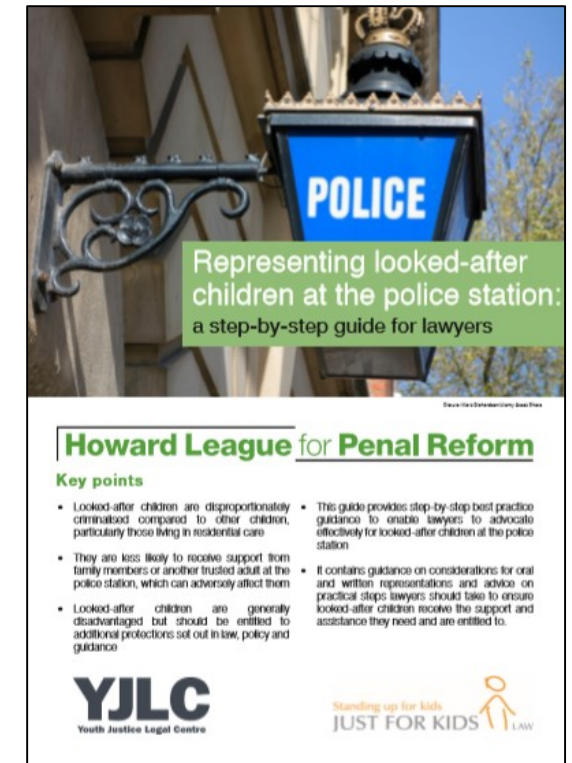
**Key points**

- Children suffering criminal exploitation are, at present, more likely to be criminalised than recognised as victims and helped.
- A multi-agency approach, based on building relationships and shared responsibility between children's homes, staff, social workers and the police, is essential to preventing criminalisation and safeguarding children.
- Despite the progress, people involved in crime, including those operating 'county lines', are taking advantage of failings in children's social care and central government oversight to exploit and abuse children in residential care.
- Focus now needs to be placed on safeguarding these children from exploitation and abuse to gangs and criminal networks.

**Briefing six**

# Guide for lawyers representing looked-after children

- Aimed at lawyers but of relevance to police, appropriate adults and anyone else supporting a child in care who has been arrested
- Offers both legal and practical guidance to working with children in order to protect their rights, identify safeguarding and care needs and get the best and fairest outcomes for them
- Looked-after children may have a range of additional needs and vulnerabilities which require practical as well as legal skills
- “*Children in care tend to have harsher and longer experiences in police custody*” (Bevan, 2019)\* and they are less likely to receive support at the police station from family or another trusted adult which can affect their outcomes



\*Bevan, M. (2019b) *Children and young people in police custody: an exploration of the experience of children and young people detained in policy custody following arrest, from the perspective of the young suspect*. PhD Thesis, The London School of Economics and Political Science. Available at <http://etheses.lse.ac.uk/3951/>

# Looking forwards

- Rates have significantly decreased but not at the same rate as for non-looked after children. We need to keep the focus high on this vital work
- The Competition and Markets Authority is currently investigating the largely privately owned children's homes market at the request of the Chair of the Care Review
- Lawyers have a huge part to play in supporting children and driving culture change at a local level

<https://howardleague.org/programme-to-end-the-criminalisation-of-children-in-residential-care>

