

# **Children and young people in conflict with the law: policy, practice and legislation**

## **Section 6: Reintegration and Transitions**

**June 2022**

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## 1. Introduction

'Reintegration and Transitions' is an umbrella term frequently used to describe policy and practice relating to children and young people who are at the interface between services, systems and processes. In this section 'transitions' refers to the transitioning of children and young people:

- Moving from children to adult services
- Moving from school to employment, training and further/higher education
- Moving from childhood to adolescence and young or emerging adulthood in developmental terms
- Moving from the Children's Hearings System (CHS) to the Criminal Justice System (CJS)
- Moving from the community to secure care or custody; from secure care to custody; and Young Offenders Institutions to adult prisons.

'Reintegration' refers to:

- Children and young people moving from having a legal order in place, for example a Community Payback Order or Compulsory Supervision Order, to having no such order; and
- Young people returning from secure care or custody to their community

In this section, the transitions from the CHS to the CJS, to and from secure care or custody and reintegrating back to the community will be focused on, providing information on the importance of good practice and how this can be achieved to deliver the best possible outcomes for young people.

Reintegration and transitions practice has been one of the areas prioritised under the Whole System Approach (WSA) ([see Section 1](#) of this guidance) and many local authorities have extended WSA processes to young adults. This section should be read in conjunction with the Scottish Government's guidance to support implementation of the WSA, in particular the [Reintegration and Transitions Guidance](#) and the online resource '[The child's journey: A guide to the Scottish justice system](#)'. This is under regular review.

## 2. The Policy Context

In 2020, the Independent Care Review (2020) findings set out a vision 'The Promise', that identified five foundations that must be built on. The vision highlighted the importance of 'voice' and of meaningful and appropriate engagement with children by compassionate caring workers. Where it is safe for children to stay with their families they should be supported to do so, and the 'family' must be supported to provide loving and nurturing experiences and to overcome any difficulties that may get in the way. Where it is not possible for children to remain with their family, they must be provided with 'care' that allows them to live with their brothers and sisters, where it is safe to do so and for as long as it is

needed. The 'people' who support Scotland's children must develop relationships where children are listened to, and workers should be compassionate in their care and decision-making. The 'scaffolding' of help must reflect a system that supports children, their families and the workforce when it is needed, and it must be responsive and ready when the support is required (Independent Care Review, 2020).

The Promise (2020) briefing summary for youth justice illustrates that there is the need for a new approach to children who come into conflict with the law in Scotland, that is more in keeping with the Kilbrandon principles. These children's rights must be upheld, by ensuring that their health, education and participation needs are met. Decision-making processes must promote children's participation, and this should take place within appropriate environments, not within the traditional criminal courts. The definition of a child is that used by the [UNCRC](#), those under the age of 18 years old, and children should not be placed within Young Offenders Institutions (YOIs). These settings are viewed as deeply inappropriate for Scotland's children.

A new approach to children in conflict with the law in Scotland is needed (Independent Care Review, 2020). For the purpose of this section it is worth noting the following points:

- Sixteen and 17 year olds should not be accommodated within YOIs
- Children who come into conflict with the law 'need care and support rather than punishment'
- Increased community based support and monitoring as alternatives are required
- The age of criminal responsibility must be brought into line with globally progressive Governments
- There should be more scope to support children who turn 18 while in secure care to remain within this service.

In 2022, The Promise Implementation Plan was published (Scottish Government, 2022). The Plan sets out measures that promote transformational change for children who come into conflict with the law. Scottish Ministers have pledged to "end the placement of 16 and 17 year olds in Young Offenders Institutions without delay" and to "fund care based alternatives to custody and consult on new legislation in Spring 2022" (Scottish Government, 2022, p. 6). Launching in March 2022, the [Children's Care and Justice Bill consultation](#) will last 12 weeks.

The Promise Implementation Plan will take forward the recommendations from the Children's Hearing System review currently being led by Sheriff Mackie. Should legislation be required this will be put forward in The Promise bill, before the end of this Parliamentary session.

The Promise Implementation Plan (Scottish Government, 2022, p. 71) "tells us that a new approach to youth justice in Scotland is required. An approach which continues to align with United Nations Convention of the Rights of the Child (UNCRC), that proceeds from a rights-respecting approach, supports all children under the age of 18 and young people up to age 26 to participate in decisions about them, directs positive support to families, and offers that support through safe and caring relationships". As part of the plan there will be an annual grant of £200 provided to 16-25 year olds with care experience to provide them with additional security that will help to reduce some of the financial barriers that many children and young people face, as they move on to more independent living.

There continues to be a commitment to deliver the [incorporation of the UNCRC into Scots law](#) to maximum effect despite restrictions imposed by the Supreme Court judgement in 2021. This will see children's rights at the forefront for children in conflict with the law.

Finally, the [Bail and Release from Custody Bill](#) will be introduced during this parliamentary session after a 12 week consultation that concluded in February 2022. This will reform the use of remand and the release mechanisms from custody.

## 2. Transitions from Children's Hearings System to the Criminal Justice System

CYCJ, the Scottish Government and the Independent Care Review published research that has informed the need for a review of the CHS. The Independent Care Review (2020, p. 41) concluded that "despite the principles of Kilbrandon that aimed to ensure a welfare based approach to offending, a significant number of children involved in offending behaviour are dealt with in criminal courts rather than through the Children's Hearing System... Traditional criminal courts are not settings in which children's rights can be upheld and where they can be heard". While significant efforts have been made under the WSA to improve on this position, Dyer (2016) also highlighted that the majority of children who end up in court could have had their behaviour addressed through the CHS, with too many children still being prosecuted as adults in adult courts, resulting in lifelong consequences. This has important implications for children's rights (see [Section 11](#)), and Article 40 of the [UNCRC](#) stresses the importance of diverting children from judicial processes. Many children entering the CJS have a range of unmet needs that can lock them into a cycle of reoffending if their needs remain unmet (CYCJ, 2016; Scottish Government, 2008). There are various situations which can result in failure to maximise the use of the CHS to manage assessed needs and risks in a child-friendly, age appropriate way.

### 2.1 Premature termination of Compulsory Supervision Orders (CSOs)

At the moment, while a CSO may be continued until a child reaches the age of 18 years old, there is anecdotal evidence and concern about the premature termination of CSOs, particularly on or around a child's 16<sup>th</sup> birthday. In research by Nolan, Dyer, and Vaswani (2017) children reported the negative impact of the premature termination of their CSO and the differential experiences between the CHS and the adult courts, with the former described as a much more positive, inclusive and understanding child-friendly system. Henderson (2017) looked at decisions made for 113 children on CSOs aged between 15¾ and 16, who had a hearing which made a substantive decision within three months of their 16<sup>th</sup> birthday. Seventy two percent of children's CSOs were continued past their 16<sup>th</sup> birthday, in most cases, in recognition of the child's vulnerabilities and the need to support them in the transition to further education and/or increasing independence, as well as following the recommendation of social work (Henderson, 2017). In some cases, where these orders were terminated, this decision did not consider the child's current needs and circumstances, it was simply because of their age (Henderson, 2017).

The premature termination of CSOs has significant implications including limiting the future ability of children to be supported through the welfare-based CHS, where most children could receive the care and support needed in keeping with their age and stage of development (Dyer, 2016; Lightowler, 2020). This results from the limited ability for 16 and

17 year olds who are not subject to a CSO to be referred to the CHS, which is currently under review. As a result, for these children entry into the adult CJS in dealing with new or subsequent offending will often be accelerated, with the raft of negative outcomes this can bring. This can also contribute to a failure to uphold children's rights (Dyer, 2016; Nolan et al., 2017). This was illustrated in research by the Inspectorate of Prosecution in Scotland (2018). In the sample of cases examined, 16 and 17 year olds who were not subject to a CSO were twice as likely to be prosecuted as those who were subject to such measures. Such a decision can increase the vulnerability of children by limiting access to childcare legislative entitlements introduced in recognition of the particular needs experienced by looked after children and aiming to ensure that any transitions for these children are graduated and prolonged. The introduction of [Staying Put Scotland guidance](#) and the duties on local authorities under [Parts 10 \(Aftercare\)](#) and [Part 11 \(Continuing Care\)](#) of the *Children and Young People (Scotland) Act 2014* have made this possible.

Research, guidance and reviews have recommended against the premature termination of CSOs (Henderson, 2017), including the Social Work Scotland (SWS) Position Statement [Children between 15 and 17 in the CHS](#). It stressed that children should continue to be supported on a CSO between the ages of 16 and 18 when this is in their best interests, appropriate and justified. It is not appropriate to base a recommendation for termination of a CSO solely based on:

- The child's outstanding offences, highlighting this will fast track children into the adult CJS and often prison
- The age of the child (unless approaching 18)
- The child's failure to engage with services that are assessed as necessary, recognising this can indicate increased vulnerability and risk, rendering support and protection under childcare legislation of greater importance.
- The fact that the child is in the adult court system or has been given a custodial sentence

Similarly, the [Supporting Young People Leaving Care in Scotland](#) guidance states that children should remain looked after up to the age of 18 years old if that is in their best interests. This general principle applies regardless of care setting and includes those looked after at home, with the early termination for CSOs based on factors such as age, or levels of engagement, to be avoided. The Scottish Government's [Looked After Children Strategy \(2015\)](#) also recommends that:

"Corporate parents in a position to influence young people panels should "presume against" recommending the ending of a compulsory supervision order around the child's 16th birthday unless continuing the compulsory supervision order would lead to a significant and negative impact on the young person's wellbeing" (Scottish Government, 2015:37).

Despite this, various arguments continue to be cited as the basis for terminating CSOs. This should be avoided and countered where evident by all parties working with the child, including:

- The child is not engaging with services. However, to be placed on a CSO, the test for compulsion outlined in the [Framework for Decision Making By Reporters](#) requires to be met, which states: "the lesser the motivation to change, or the willingness to co-operate, the more likely that a CSO is necessary" (SCRA, 2013:2).

- Sixteen and 17 year olds are children, not adults, and research highlights that brain development continues well into the twenties with new patterns of repetitive experiences and healing nurturing relationships promoting lifelong learning (Kohlstaedt, 2010; McEwan, 2017; O'Rourke et al., 2020). Children are often vulnerable and may demonstrate their difficulty in making positive choices. By prematurely terminating the CSO they may quickly become in conflict with the law and end up in the revolving door of the CJS, leading to periods in custody, with significant implications but limited opportunity for intervention to effect change within the custodial setting.
- The child is more likely to engage if supervised under a Community Payback Order (CPO). Both CSOs and CPOs require that a child has an allocated social worker with whom they meet regularly for purposeful contact. CSOs are extremely flexible in nature, and it would be surprising if a child, with Offender Supervision Requirement as part of a CPO, would be able to provide a form of service provision that was significantly different in focus or more robust. Moreover, the costs of non-compliance with any of the requirements of a CPO are significant (Bateman, 2011; Nolan, 2017b, 2018a).
- The child has already been made subject to a CPO; therefore the CSO has become redundant. In fact, this dual status may prove beneficial. Depending on the age of the child and length of any CPO imposed, if the CSO is terminated and the child subsequently breaches the CPO, or the Order ends before the young person is 18, they may lose the support and services provided within the CHS, including the possibility that further offences might be considered by a Children's Hearing rather than the Court.
- The child is in secure care or custody. However, the length of time for which they are detained will vary depending on whether they have been remanded or sentenced. The length of detention may be short and premature termination of a CSO would lead to a situation where the local authority no longer had a legal duty to provide a service and support to the young person.
- The child will not be able to obtain supported accommodation if they are subject to a CSO but this should not be the case.
- The child wants to be treated as an adult, believes he/she has outgrown the CHS and emphasises that his/her views must be given consideration. While the child's views should always be considered, as per [UNCRC](#) and domestic legislation, their ability to manage risky situations during adolescence and to make informed decisions is likely to be as limited as that of children who are not "looked after" and who rely on their parents and carers for support and advice for many years (McEwan, 2017). In making any assessment and recommendation, all responsible Corporate Parents must weigh up the child's desire to be treated as a "grown up" in the "adult system" with the significant negative consequences which may stem from their non-compliance with Court.

## 2.2 The failure to utilise remittal to the Children's Hearings System

As detailed in [Sections 1 and 12](#), Scotland has legislative measures to enable children aged under 18 years old who appear in court to be remitted to the CHS for advice or disposal. The right of children to be diverted from formal judicial processes and the promotion of specialised systems for child accused is enshrined in the UNCRC. However, while significant progress has been made in relation to children who come into conflict with the law, there has been little change in the proportion of requests for advice from criminal courts to the CHS and criminal proceedings where the outcome was to remit to a Children's Hearing, which

remains extremely low (Dyer, 2016; Henderson, 2017). On average, only 10% of those children aged 16 and 17 attending summary court are referred to the CHS from the Sheriff Court for advice and 6% for disposal between 2009/10 and 2013/14 (Dyer, 2016). In 2015/16, the court requested criminal advice from Children's Hearings for 109 young people, 49 of whom were remitted by courts to Hearings for disposal (Henderson & CYCJ, 2017). This was echoed by the (Independent Care Review, 2020) concluding that the proportion of cases remitted remains low.

It is imperative that all social workers are familiar with s.49 of *the Criminal Procedure (Scotland) Act 1995* which outlines in detail the circumstances whereby a child found guilty of an offence in an adult court may have their case remitted back to a Children's Hearing for advice and/or disposal (see [Section 1 and 12](#); SWS, 2019). Moreover, all social workers should follow guidance as detailed in [Section 1](#), which clearly states:

“the report writer must **always** comment on the option of remittal back to the Children's Hearing, (where the subject of the report meets the criteria of being under 17 years and six months) **but** it is critical to be clear that remittal is being considered with a view to work being undertaken which will address both the needs and risks already identified as well as being tailored to the young person's stage of development” (Scottish Government, 2010:52).

Research indicates that this does not always happen in practice and geographical differences have been noted. This highlights how important it is that local methods are developed to ensure this is the case and workers are supported to provide the court and the CHS with good quality action plans to support decision-making in respect of remittal (Henderson, 2017; Nolan, 2015). In addition, where a child is nearing 16 years old and has outstanding offences, consideration should be given to referring them to the Children's Reporter (Dyer, 2016). Henderson (2017) concluded that this was also a matter for the courts and the CHS, particularly in looking beyond a child's non-engagement with services and in fully considering the other supports available via the CHS. While further legislative change could support the aim of ensuring attendance at court is the option of last resort for all under 18s in Scotland, it is imperative that the current measures detailed above are maximised if we are to address the trend of too many children appearing in court (Dyer, 2016).

### 3. Children in transition to and from secure care and custody and reintegrating to their community

#### 3.1 Children's rights

[The UNCRC](#) specifies the rights of every child, including those children who come into conflict with the law and are deprived of their liberty (for further information [see Section 11](#)). The UNCRC specifies every child should be “fully prepared to live an individual life in society” (United Nations Committee on the Rights of the Child, 1989:2), with children having a right not to be punished in a cruel, inhumane or degrading way (Article 37), and the detention or imprisonment of children must be lawful, and only used as a measure of last resort and for the shortest appropriate period of time. There must also be alternative services that can provide intensive supports in the community. The child's needs and age must be respected, this includes separating children from adults unless this is not in their best interests; they must have access to legal advice, advocacy and other assistance and be

able to challenge their detention as well as having the right to family contact. They have the right to be treated in a manner that is consistent with their sense of dignity and worth, requiring the use of institutions specifically designed for children and that promote the child's reintegration and assuming of a constructive role in society, thus enshrining a focus on reintegration support and throughcare (Article 40). In addition, services and supports should be made available to fulfil children's rights to health and healthcare (Article 24); education (Article 28 and 29); leisure (Article 31); and to promote physical and psychological recovery and social reintegration of children who are the victims of neglect, exploitation, abuse, torture or any other form of cruel, inhumane or degrading treatment, in an environment which fosters the health, self-respect and dignity of the child, be this in the community, secure care or custody (Article 39). The services and facilities responsible for the care or protection of children, must meet the standards established by competent authorities, particularly in respect of safety, health, in the number and suitability of their staff, and competent supervision (Article 3).

The [Standard Minimum Rules for the Administration of Juvenile Justice \(The Beijing Rules\)](#) reinforce the above and include specific articles on detention pending trial (Article 13); least possible use of institutionalisation (Article 19); and part 5 relates to institutional treatment. Under part 5, children deprived of their liberty should be provided with care, protection, and all necessary assistance - social, educational, vocational, psychological, medical and physical - with a view to assisting the child to undertake socially constructive and productive roles in society in the future. The importance of support for children returning to the community is also highlighted under Articles 28 and 29, with the commentary stating:

“the importance of care following a period of institutionalization should not be underestimated... This rule also emphasizes the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering the community and to provide guidance and structural support as an important step towards successful reintegration into society” (United Nations General Assembly, 1985:16-17).

While the language used above is dated, the principles remain the same and children in conflict with the law need support and care to re-integrate into their community. Similarly, the [United Nations Rules for the Protection of Juveniles Deprived of their Liberty \(The Havana Rules\)](#) further reiterate and extend the above principles, by including the need for the rehabilitation, planning for the period of detention, the range of supports that should be made available, matters while the child is detained (such as regarding the use of restraint and complaints processes) and reintegration planning and support. It specifies all children should benefit from arrangements and supports to aid their return to society, family life, education or employment and to promote successful transition, with support in respect of accommodation, employment, clothing and financial support likely to be required, and services should begin prior to release. The importance of community and family involvement is also stressed. They establish minimum standards for what children deprived of their liberty should expect from the services and staff, including in respect of admission; the environment and accommodation; education, work and training; leisure time; healthcare; family contact; restraint; and complaints. These factors are also echoed in the [Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice](#).

This means that the provision of a support package for children during a period of being deprived of their liberty and on return to the community is a legal obligation rather than being optional. This should “...ensure reintegration and look to get young people back to the place

where they would have been if their liberty had not been deprived” (Lightowler, 2020, p. 20). In spite of this, the UNCRC (2019) in [General comment No. 24 on children’s rights in the child justice system](#) reiterates that further steps should be taken to minimise children being deprived of their liberty and have their rights upheld. To maintain contact with their family, children should be supported by placing them as close to their families’ place of residence as possible and contact should only be limited in exceptional cases. The environment, education and accommodation provided should support reintegration; health needs should be met; and contact with the wider community promoted. Moreover, it is recommended that the use of restraint should be minimised; but in the event where the child is a danger to themselves or others, the incident must be recorded, evaluated and reviewed; and restraint must not be used for disciplinary purposes or involve the infliction of pain; solitary confinement should not be used for children; and any disciplinary measures should uphold the child’s dignity. In their [concluding observations](#), the United Nations Committee on the Rights of the Child (2016) highlighted a range of areas in which the UK could do more to take forward the principles and provisions of the UNCRC. Recommendations include the need for better monitoring and data collection on the number of children in detention; adoption of approaches to reduce the number of children in detention; ensuring restraint is only used to prevent harm to the child or others, and that it is not used for disciplinary purposes and pain-inducing restraint is banned; establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time and ensure that detention is not used discriminatorily against certain groups of children (including children in care); and remove all children from solitary confinement (United Nations Committee on the Rights of the Child, 2007, 2016). Similar recommendations were made by the United Nations Human Rights Committee (2015) in its [Concluding Observations](#) and the United Nations Committee Against Torture (2019) [Concluding Observations](#) called for the establishment of effective and child-accessible complaints mechanisms; improved conditions of detention for all age groups; improved data collection on deaths in detention; assessment of effectiveness of suicide prevention and risk identification strategies; prohibiting the use of solitary confinement in all circumstances; and abolishing all methods of restraint against children for disciplinary purposes and banning pain-inducing restraint. These international conventions are in keeping with recent Scottish developments reflected in [The Promise implementation plan](#) and [UNCRC bill](#). This underlines the crucial importance of all practitioners understanding children’s rights and supporting the adoption of a rights-based approach to reintegration and transitions.

### 3.2 Scotland’s approach to children deprived of their liberty

Nowak (2019) in a ‘Global Study on Children Deprived of their Liberty’ found that children being detained continues to be overused. Children in secure care and custody continue to be some of our most vulnerable, disadvantaged and excluded children in society. These children will often have already faced multiple adverse experiences, including abuse (sexual; physical and emotional); neglect (physical and emotional); household dysfunction (familial substance abuse; familial mental illness; domestic violence in the home; incarceration of a household member); moves of home and school; community violence; and associated trauma (Gough, 2016, 2017; Johnson, 2017; Moodie & Gough, 2017; Smith, Dyer, & Connelly, 2014; Youth Justice Improvement Board, 2017). These pre-existing vulnerabilities and disadvantage can often be exacerbated for the child with the additional experience of being deprived of their liberty (Armstrong & McGhee, 2019; End Child Imprisonment, 2019; Vaswani & Paul, 2019). It is well established that depriving a child of their liberty, even for very brief periods impacts on their wellbeing, in both the short and longer-term, with children experiencing “...fear, isolation, trauma and harm in addition to discrimination, stigma and

disempowerment” (Mendez, 2015; Nowak, 2019, p. 8) . While children are deprived of their liberty they are at greater risk of violence; of having their rights and opportunities violated and deprived; and of being traumatised, retraumatised and of experiencing institutional or context specific trauma (Armstrong & McGhee, 2019; End Child Imprisonment, 2019; Lightowler, 2020; Nowak, 2019; Vaswani & Paul, 2019). It is also recognised that the removal of children from their families and communities to secure care or custody interferes with processes and factors generally thought to promote desistance, including developmental processes, positive links with the community, family ties, employment and housing (Rutherford, 2002) (see [Section 3](#) for more on desistance). This has led Nowak (2019, p. 23) to conclude that “deprivation of liberty constitutes a form of structural violence against children” and the treatment of children during these times may amount to torture. Moreover, the transitions to and from secure care or custody are major, often traumatic, life events for children, which in addition to the negative effects this experience can bring, coupled with the above, render children susceptible to a range of (further) negative outcomes on return to the community (Bateman, Hazel, & Wright, 2013; Hollingsworth, 2013).

In accordance with the above, as part of the WSA, alternatives to secure care and custody should be utilised wherever possible and appropriate, although there are issues regarding the consistent availability of high quality alternatives nationally (Moodie & Gough, 2017; Scottish Government, 2011a, 2011c). Although secure care and custody both deprive children of their liberty, there are numerous differences between the two environments and for those children whose needs and risks cannot be managed in the community, secure care should be utilised instead of custody (Gough, 2016). This is because secure care is first and foremost a form of care, not punishment, which is deemed to provide a more age-appropriate service, offering relationship-based and therapeutic, trauma and attachment informed support, a far greater ratio of staff to children, and a more child-centred environment and design (Gough, 2016; Lightowler, Orr, & Vaswani, 2014). In addition, although small scale, in research by Nolan et al. (2017) children with experience of both secure care and custody advised that while they were in secure care they benefited from increased freedoms and material provisions, and better contact and links with family, education provision and preparation for leaving, stating that they preferred secure care to custody.

Secure care centres in Scotland are registered, regulated and inspected by the regulatory bodies: the Care Inspectorate and Education Scotland (Gough & Lightowler, 2018). The workforce must be registered and qualified to provide care and education for children in secure care (Gough, 2016). Registration results in staff having to meet fitness to practice standards and qualification requirements (Scottish Social Services Council, 2022). There are differences between settings regarding the use of restrictive practices, such as separation and segregation, searching and restraint, practices which can violate multiple rights of children, traumatise and where there is a lack of publicly available data on usage (Scottish Government, 2017). For example, the use of pain-inducing restraint is permitted in YOIs and prisons, but not in secure care, albeit recognising that any form of restraint can cause pain and there is no such thing as entirely safe restraint (Lightowler, 2020). In addition, the [Secure Care Pathway and Standards](#) has set out 44 standards of practice that secure care centres utilise to promote children’s care and wellbeing in a participatory and rights-respecting approach. The Standards set out what children can expect before, during and after their experience in secure care.

When a child is deprived of their liberty, a period of stability is essential, providing predictability to support the child's care and wellbeing needs. Encouraging healthy development to promote positive identity formation and opportunities to live a fulfilling life in the community is important, within which the establishment of supportive and respectful relationships that enable children to feel safe and secure and to develop trust, self-awareness, agency and regard for themselves and others is crucial (End Child Imprisonment, 2019). This should take place through the provision of therapeutic, relational and trauma-informed care, where children's needs are met and their rights upheld (Independent Care Review, 2020). Some children in secure care stated that this type of placement had saved their lives and being in custody had prevented more serious offences being committed or harm being caused (Gough, 2017; Nolan et al., 2017; Vaswani, Paul, & Papadodimitraki, 2016). Vaswani and Paul (2019) concluded that even with the best available training and interventions, safe and trusting relationships cannot be built into prisons due to the purpose of prison, the inbuilt power imbalances, the restricted regime, a climate of fear, the building design and a lack of in-depth trauma related support. The skills and qualifications for staff mean that a truly trauma-informed approach in such environments is impossible. While the intention under WSA is that secure care should be utilised and actively considered as a possible place of detention rather than custody, we continue to see fewer children remanded or sentenced to secure care than custody, with various reasons for this (see for example Nolan (2019b) on the limited legislative routes to secure care) and Scottish Government figures show that in recent years there have been between five and ten times the number of 16 to 18 year olds in HMP&YOI Polmont on sentence or remand than in secure care (Gough & Lightowler, 2018; Nolan, 2020).

Recently, Scotland's approaches to children deprived of their liberty have gained arguably unprecedented attention, with major reviews and inspections suggesting an alternative approach is now needed. While the most recent inspection by HM Inspectorate of Prisons for Scotland (2019b) of HMP&YOI Polmont identified a range of positive factors, including relationships between staff and children/young people; the range of evidence-based opportunities available; and partnerships with the community, it concluded that the establishment has the architecture and staffing appropriate to an adult prison. (HM Inspectorate of Prisons for Scotland, 2019b) concluded that best practice in child-centred thinking requires a different approach, closer to that used within secure care centres, recommending consideration of a hybrid model. Likewise, the Scottish Parliament Justice Committee (2019, p. 37) inquiry into secure care and prison places for children in Scotland recommended that "...whenever our judicial system decides to take away a child or young person's liberty then it is incumbent that they are provided with the best possible care and services in order to keep them safe, meet their needs and aid their rehabilitation back into the community...unless there is strong evidence to the contrary, no young person under the age of 18 should be placed in HMP&YOI Polmont when a place in a secure care unit would be more suitable".

The Independent Care Review (2020, p. 91) concluded that "Young Offenders Institutions are not appropriate places for children and only serve to perpetuate the pain that many of them have experienced. There are times where it is right for children to have their liberty restricted, but that must only be done when other options have been fully explored and for the shortest time possible and in small, secure, safe, trauma-informed environments that uphold the totality of their rights". They also found that Scotland's response to children needing secure care has to change, resulting in a number of recommendations that aligned with those of the Scottish Parliament Justice Committee (2019) being made. It is clear that there is momentum to change our approach to children deprived of their liberty. It is also

clear that for strategies to be effective, a multi-agency and multi-disciplinary approach is necessary (McAra & McVie, 2022).

### 3.3. Throughcare support

This section details the key components of throughcare support for children who are currently placed within secure care or custody. Throughcare, sometimes called resettlement, refers to a range of supports provided by social work and other services, both from within and outside the criminal justice system, the statutory and third sector, to children entering secure care or custody and their families from the point of sentence or remand, during their period in secure care or custody, and subsequent return and reintegration to the community (Malloch, 2013a; Scottish Government, 2011c). The Youth Justice Board (2018) concluded that the aim of resettlement should be to support the child's identity shift from one that is pro-offending to a position of being pro-social. This builds on the research by Hazel, Goodfellow, Liddle, Bateman, and Pitts (2017) who advocated that effective and sustained resettlement or reintegration involves a journey of shifting the young person's perception of themselves from being in conflict with the law to one that promotes a positive contribution to society and a new narrative for how they relate to others. This is recognised as the foundation for achieving improved outcomes and positive futures, including reducing the likelihood of reoffending and ultimately to support desistance (Youth Justice Board, 2018). The second aim of throughcare support is to aid the transition for young people returning and reintegrating to their community from secure care or custody. It must be noted however that the majority of children placed within secure care present a risk to themselves rather than others (SCRA, 2021).

It should be noted that throughcare is distinct from aftercare for care leavers (as defined in the [Children and Young People \(Scotland\) Act 2014](#)) but for a variety of reasons this is arguably even more critical. Many children in secure care and custody will also have aftercare entitlements. Cameron, Broderick, and Carnie (2017) found three fifths of children sampled in the Scottish Prison Services Prisoner Survey in 2017 reported being in care at the age of 16 years old. More recent research by Day, Bateman, and Pitts (2020) highlighted that for care experienced children, deprivation of liberty and resettlement is more disruptive for them than their non-looked after peers, with the focus on survival and strategies to ensure this, as well as self-reliance (often driven by experiences and a sense that others could not be relied upon), rendering these children's focus being more on the here and now, rather than the future. This is a key aim of resettlement support and in promoting desistance. It has been echoed by Baker (as cited by Fitzpatrick, Hunter, Staines, and Shaw (2019)), who stated care experienced children felt that they had no space to get things wrong and lacked wider family support networks to fall back on. It is good practice that any child who is sentenced prior to their 16<sup>th</sup> birthday is treated as a looked after child and care leaver and receives such benefits CELCIS, 2014). It is important workers understand and are able to communicate these entitlements to children as research has shown children are often unaware of, or do not identify with, their care leaver status and do not know what is available to them (Nolan et al., 2017; Scottish Care Leavers Covenant, 2015). In seeking to address this, a [protocol for the identification of looked after young people and care leavers by justice agencies](#) has been developed, which all practitioners should be familiar with and utilise. It is also important all practitioners can support children to access what they are entitled to, advocating on their behalf to ensure corporate parenting duties are fulfilled (Scottish Care Leavers Covenant, 2015). This includes the ability, under the [Children & Young People \(Scotland\) Act 2014](#), to request an assessment of need (Part 10, Aftercare), which local authorities **must** undertake and if eligible needs are identified, **must** ensure that these

needs are met up to the young person's 26<sup>th</sup> birthday. This may be directly or in collaboration with other named corporate parents or other agencies.

Except for the work of [Beyond Youth Custody](#), research specifically focused on the throughcare needs of, and effective practice with, children aged under 18 is limited. The Beyond Youth Custody programme has produced a significant body of evidence about effective resettlement for children leaving custody and has been built upon by the Youth Justice Board (2018) in England and Wales who made resettlement and transitions between services a strategic priority. The following sections will draw upon the programme's [Framework for Effective Resettlement](#).

### 3.4 The role of services

To achieve the aims of throughcare, services need to provide two types of support: personal support that helps children on their journey of change, and structural support that helps children to overcome barriers to enabling them to examine and explore their identity. Individualised personal support should always come first to guide identity shift, with individualised structural support provided to enable this shift (Youth Justice Board, 2018).

#### **Personal support**

Personal support fundamentally relates to efforts to help children to see the way forward towards a more positive identity and future and the pathways that can help to achieve this (Hazel et al., 2017). This need to help conceptualise an alternative future adulthood is particularly important for children, for whom the ability to have hopeful conversations and build hope is important (see Miller and Baxter (2019)). This involves helping to build children's self-belief and esteem and promoting and reinforcing positive change (Bateman & Hazel, 2013; Rajah, Kramer, & Sung, 2014). Personal support begins with helping children to identify their current strengths and future goals; understand their previous experiences and barriers; establish supportive, caring and hopeful relationships; identifying, planning and facilitating activities that will help these goals to be achieved; and supporting and sustaining change (Hazel et al., 2017).

Personal support should also involve preparation for the fact that transitions into and out of custody and secure care can be stressful, overwhelming and disorientating experiences for children, with the potential to be experienced as traumatic or retraumatising (Vaswani & Paul, 2019). Such transitions require the readjustment to a new life regime, becoming familiar with a new environment and renegotiating relationships, to the extent that:

“...children's related experiences [in the weeks post-release] are consistent with symptoms of adjustment disorders which carry increased risks of long-term psychiatric illnesses and suicide” (Bateman & Hazel, 2015:3).

It is therefore unsurprising that the period immediately following release is associated with increased risk of breach, reoffending and other negative outcomes, with Bateman and Hazel (2015:7) concluding that:

“the period immediately after release has been identified as a window of opportunity during which young people may be committed to giving up offending (Bateman et al., 2013). The shock of leaving custody, however, if not addressed, might tend to undermine that commitment, thereby reducing the prospects for desistance.”

It is therefore important that:

- Children are prepared early for their return to their community, how this may feel and difficulties that may be faced. Periods of time outwith the secure centre or temporary release may be beneficial.
- We listen to children's assessment of their readiness for return to the community and how this can be supported, requiring the full involvement of children in these processes and the provision of choice for future plans including living arrangements (Scottish Government, 2020).
- Careful planning is undertaken, recognising returning to the community is likely to have both negative and positive associations for the child and complexities
- Children know as early as possible where they will live when they move on, support is established pre-release, they understand all plans and contact arrangements
- Enhanced emotional and practical support is provided at the point of transitions
- Children are given time and flexibility in this adjustment period and a responsive, structured timetable and activities for the initial period and beyond is considered, as are contingency plans and strategies to promote the plan's progress.
- Supports are provided not just in the initial days and weeks but in the longer-term based on the needs of the child and plans move at their pace
- Supports are based on positive, hopeful, empowering and well developed relationships (Bateman & Hazel, 2015; Gough, 2017; Malloch, 2013a; Scottish Government, 2020).

### **Structural support**

Structural support facilitates the changes needed to enable the child to follow their chosen pathway and to address barriers to change (Hazel et al., 2017). Structural support requires coordination of planning and services, both within secure care and custody and the community; continuity of support including following return to the community; flexible and timely support and exit planning (Hazel et al., 2017). Areas often requiring structural support include those which are recognised to underpin effective reintegration and to contribute to desistance, namely accommodation, education, training and employment, health and substance misuse, involvement of families and financial stability. These are also factors children have highlighted when asked about their wishes for the future and identified as components of hope - a home and housing; a job, education or skills; health and self-esteem; a family and trusting relationships; and some sense of stability, security and normality (Miller & Baxter, 2019). While support in each of these areas is important, they should not become "ends in themselves", with it critical that a joined-up, holistic, forward looking and strengths-based approach is adopted (Hazel et al., 2017). The following information highlights the importance of attention being devoted to each of these areas and points for consideration in practice.

### **Accommodation**

Housing problems may pre-date and be exacerbated by, or may be the result of, entry to secure care or custody, with accommodation consistently identified as a key concern for children leaving where they have lived (Scottish Government, 2015). In the Talking Hope project (Miller & Baxter, 2019) children and staff in secure care expressed concern about the identification of suitable placements to move on to, a lack of choice and control, as well as

time to develop relationships with new supports in place. Similarly, the (Care Inspectorate, 2020) review into the deaths of looked after children, where children were at high risk of self-harming and suicide and aged between 16 and 18, showed there were limited options available for their return to the community, meaning some returned to reside with family members or into supported accommodation arrangements, which had a high likelihood of breakdown, subsequent homelessness and further trauma-related harm. This was echoed in research by Day et al. (2020, p. 5) where care experienced children shared concerns about living arrangements which dominated, meaning other considerations, including how they might construct a positive future for themselves or utilise the support that was being offered, became secondary. In the 2017, the Scottish Prison Service (SPS) prisoner survey (Cameron et al., 2017) 41% of children reported losing their tenancy or accommodation when they entered custody and 29% reported not knowing where they would live on release. The Youth Justice Improvement Board (2017) highlighted that 66% of children in HMP&YOI Polmont stated it was very important to receive support to find accommodation, the second most important factor behind gaining help to find employment.

While loss of accommodation and homelessness are the most obvious concerns, Shelter Scotland (2015) and the Scottish Government (2015) have highlighted wider accommodation-related issues such as loss of possessions; accrual of arrears; shortage of appropriate, secure and supported accommodation on release; and lack of skills in managing a tenancy. There is also evidence that accommodation is a particular issue for women (Broderick & Carnie, 2018; Commission on Women Offenders, 2012). The implications that result from housing issues are wider and intersect with a range of the other areas impacting on effective reintegration. The Howard League for Penal Reform (2020, p. 2) states: "a roof over a child's head is not sufficient to reintegrate a child into the community, but an address is essential to enable planning to meet a child's needs for education, leisure, health and other important networks of support". It is well established that children who experience accommodation difficulties on release are significantly more likely to reoffend than those who have stable accommodation (Bateman et al., 2013; Malloch, 2013a; Scottish Government, 2015; Shelter Scotland, 2015).

At a practice level, housing-related service provision nationally during the throughcare process is inconsistent. For people in custody, SHORE housing standards have been developed to improve this situation (Scottish Government, 2015; Scottish Prison Service, 2017). The aim should be that every child leaving secure care or custody has suitable accommodation that is identified prior to their return to the community, with the Secure Care Pathway and Standards detailing the importance of choice, visiting, building relationships and a full involvement in planning for this move (Gough, 2017; Scottish Prison Service, 2017). In addition, supports should be provided to children, both while in secure care and custody and on release, from a range of providers including public, third sector and specialist housing services. These services should involve:

- All those involved with the child proactively enquiring about their housing situation and providing informed housing advice and support
- Identifying housing needs at the earliest opportunity
- Supporting the child to/and as necessary inform appropriate agencies of changes of circumstances when a child enters custody, towards the aim of sustaining accommodation where possible (e.g. landlord, Department of Work and Pensions (DWP), mortgage provider).
- Securing the property and/or retrieving and storing possessions

- Accessing support from specialist services, such as [Shelter Scotland](#), who can provide specialist advice, support, and guidance
- Making accommodation-related arrangements for dependents and potentially transferring tenancies to other family members/relevant persons
- Dealing with abandonment or eviction proceedings
- Support to deal with historical housing issues
- Contacting and supporting relatives who may provide accommodation on release
- Identifying and accessing safe, suitable and sustainable accommodation for return to the community by providing information about processes and starting early any necessary assessments and applications (homeless legislation enables an application to be made eight weeks prior to leaving custody; if the local authority fails to accept or act on this they are also failing to uphold that individual's legislative rights - see SHORE housing standards for more information). There are examples of how this has been creatively supported and enabled, for instance, through the use of virtual visits to show potential tenancies so that they are secured prior to release.
- Advocating on the child's behalf; making arrangements for moving into accommodation; establishing support, and coordinating appointments for their return to the community.
- Support to develop independent living skills and in tenancy management, recognising that the child may not have previously lived independently
- Responding promptly to changes in housing circumstances
- Fulfilling corporate parenting responsibilities towards looked after children and care leavers, recognising care experienced children are at greater risk of homelessness (Dore, 2015; Nolan, 2016b; Scottish Government, 2015, 2019c; Scottish Prison Service, 2017; Shelter Scotland, 2015; The Robertson Trust, 2017).

## Education, training and employment

Disengagement from education and poor educational experiences are all too common for children in secure care and custody, with persistent truancy, school exclusion and lack of attainment strongly associated with offending (Scottish Government, 2011b; Youth Justice Improvement Board, 2016). Attainment levels and positive post school destinations for looked after children, while improving, still lag behind when compared with all pupils (Scottish Government, 2019a). 2017/18 data indicates that looked after children tend to leave school at earlier stages, obtain lower qualification levels than all school leavers, and are less likely to go on to positive destinations than school leavers in general, especially higher education (Scottish Government, 2018). Moreover, research indicates almost half of young men in custody have reported they had experienced school exclusion, for many including from primary school, but more than 70% report that they enjoyed school some or all of the time (Smith et al., 2014; Youth Justice Improvement Board, 2017). However, further research has shown that care leavers are likely to achieve academically later in life (Sacker, Murray, Lacey, & Maughan, 2021; Ward & Stein, 2021).

It is important that throughcare support pays attention to the disadvantage that children are likely to have experienced educationally and the time children spend in secure care or custody is utilised to support and enhance learning (Independent Care Review, 2020). These experiences, when coupled with the stigma of having a criminal record; the requirement to disclose unspent and certain spent convictions (as well as the complexities

surrounding disclosure); and structural conditions which may impact more heavily on those with convictions, render the accessing of education, training and employment for those leaving secure care and custody more complex (Malloch, 2013a; McGuinness, McNeill, & Armstrong, 2013; Nolan, 2018b; Nugent & Schinkel, 2016). [The Disclosure Scotland Act 2020](#) and subsequent implementation planning may overcome some of these barriers. A lack of employment and issues in accessing education on return to the community have been identified as key concerns. The Youth Justice Improvement Board (2017) reports that 72% of children spoken to in HMP&YOI Polmont stated it was very important to receive support to find employment.

Education, training and employment is generally associated with reduced offending and desistance. It can help to establish financial stability; reducing unstructured time; providing a daily routine and positive social relationships; having a positive impact on identity, and goals; accumulation of human and social capital; and promoting self-esteem, purpose, hope and direction (Kendrick et al., 2008; Piacentini, Weaver, & Jardine, 2018). It is however noted this is also impacted on by the nature and quality of the employment, how this interacts with the individual's goals, priorities and concerns, and influences their self-identity (Weaver, 2018). While this should not be the sole focus of reintegration support, this should include:

- Ensuring information about any additional support needs, learning styles, and what can help is shared when a child enters secure care or custody (see [Scottish Transitions Forum \(2017\)](#) for the principles of good transitions for children with additional support needs).
- The provision of creative, holistic, motivational and individually tailored approaches to support learning, and encouraging and supporting children to utilise education, training and employability support and opportunities while in secure care and custody.
- Offering a wide range of high quality educational, vocational and community-based experiences and qualifications and support to attain and achieve at the highest standard, helping children to develop their interests, skills, strengths and hopes for the future.
- Taking training, the pursuit of qualifications, timings of exams etc. into account in determining the most appropriate time for transitions and continuing this on entrance to/return from secure care or custody, where possible. For this to be possible within secure care, a smooth handover of information and changes to the SQA exam process are needed.
- Providing good quality information and support regarding the disclosure of criminal records including the periods of disclosure, what requires to be disclosed, how this can be managed etc. ([see Scotland Works for You](#)). This may include helping the child to access specialist support.
- Making efforts to have education, training and employment in place pre-release and recognising the need for providing the right opportunity/course/job, at the right time, with appropriate, ongoing, coordinated, flexible and wraparound support to sustain this.
- Recognising that the journey to employment is often less linear for children in conflict with the law (Bateman et al., 2013; Gough & Lightowler, 2018; Smith et al., 2014; Who cares? Scotland, 2014; Youth Justice Improvement Board, 2019).

## Health and substance misuse

Children involved in serious and persistent offending may be likely to have additional health and wellbeing needs, including mental and emotional health (Gough, 2016; Scottish Parliament Justice Committee, 2019). Research in one Scottish secure centre highlighted high levels of post-traumatic stress (65%), depression (65%), and dissociation (18%) in the children who participated (Barron & Mitchell, 2018). Similarly, in the [2018 census](#) of Scottish children in secure care in Scotland, 35% of children had attempted suicide in the year prior to admission, with 53% experiencing suicidal ideation; 22% had received a trauma diagnosis over that timeframe; and staff within secure care noted that for 24% of children there was a suspected, undiagnosed mental health concern, but only 36% of children had received support from the NHS's Child and Adolescent Mental Health Service (CAMHS) in the year prior to admission (Scottish Parliament Justice Committee, 2019). In addition, Armstrong and McGhee (2019) highlighted that children in custody had higher rates of suicide and higher rates of factors associated with self-harm and suicide, including: depression; anxiety disorders; psychotic symptoms; attention deficit hyperactivity disorder (ADHD), finding that children in custody were more vulnerable than those in the community. Girls and young women in secure care and custody are particularly likely to suffer from mental health issues, self-harm, suicidal behaviour, and trauma (Bateman & Hazel, 2014; Malloch, 2013a) (for more info see [Section 7](#)).

The Scottish Government's Mental Health Strategy 2017-2027 is committed to increasing support for the mental health needs of children involved in offending ([Section 10](#)). In 2020, The Scottish Youth Parliament and group of young volunteers developed a range of resources to support mental health transitions from children's to adult services (See: [Transition Care Plans: moving from CAMHS to adult mental health services](#)). In addition, many children in this population experience physical health needs, such as speech, language and communication issues (with 75% to 90% of children in custody estimated to have speech, language and communication needs); head and brain injury; learning disabilities; and have substance misuse problems, often as a means of self-medicating and to manage the impact of traumatic experiences in their lives (Care Inspectorate, 2020; McEwan, 2017; Nolan, 2018c). Often these issues have not been identified, assessed or addressed and therefore no support has been given to these children, instead they are labelled as having "challenging behaviour" (Broderick & Carnie, 2018; McEwan, 2017; Moodie & Gough, 2017; Vaswani, 2014) ([see Section 9](#)).

The period where a child is in secure care or custody can provide a unique opportunity for these needs to be addressed, providing benefits for the child and their family, the wider community and the NHS (CYCJ/IRISS, 2019; Nolan, 2017b). However, recently issues and concerns have been highlighted in ensuring the health needs of children in secure care and custody are fully met and their rights to equal access to health provision and services upheld (HM Inspectorate of Prisons for Scotland, 2019a; Lightowler, 2020; Scottish Parliament Justice Committee, 2019). The trauma of return to the community may exacerbate these difficulties, which can present additional challenges to successful reintegration and impact on other pathways such as sustaining accommodation and employment, education or training, rendering the need for health support at times of transitions high (British Medical Association, 2014).

This support should include:

- Children having their health needs assessed on arrival at secure care or custody, with any relevant information shared by community-based staff and needs met throughout.
- Timely access to universal, targeted and specialist assessment, services and treatment as required
- The provision of broad, inclusive, interactive, quality health education that includes mental and emotional wellbeing; physical activity; nutrition; cooking; dental health; sexual health; relationships; consent; medication; substances; feelings; sleep; confidence and stigma which may have been missed through non-school attendance.
- Recognising health and wellbeing as part of holistic intervention for children, requiring a broader whole establishment/environment approach to health and wellbeing.
- Prior to return to the community, making any necessary referrals to, and registration and appointments with, community-based services and pre-empting potential issues and developing contingency plans where possible. This should include GP and dental registration, which is an entitlement even for those without a permanent address. If an individual is trying to register with a GP they can use a care of address, such as a friend or relative's address, or that of the GP Practice itself.
- All staff and organisations should practice in a trauma-informed way. This requires understanding of the prevalence and impact of trauma for children involved in offending behaviour; in recognition of those revised policies and practice; and aims to prevent re-traumatising by the service or systems, recognising the challenges of providing trauma-informed care in custodial settings (SAMHSA, as cited by Vaswani and Paul (2019)).
- Ensuring the whole workforce has robust baseline and ongoing training on trauma, adversity and mental health, attachment and resilience, child development and the impact on children. In addition, there is a need to support the workforce in managing the often challenging work of supporting children with complex needs. For further guidance and resources see the [NHS Education for Scotland National Trauma Training Programme](#).
- Staff should be alert to the potential for undiagnosed health issues with the children they are working with and the impact this may have on their understanding of processes and compliance with the expectations placed on them. Staff should tailor their approaches to most effectively support and meet the child's needs ([see Section 10](#); (Bateman & Hazel, 2014; HM Inspectorate of Prisons for Scotland, 2019b; McClafferty, 2016; Murphy, 2018; Nolan, 2017a, 2017b; Scottish Government, 2011b; Vaswani & Paul, 2019; Youth Justice Improvement Board, 2019)).

### **Involvement of families**

As highlighted in the literature reviewed by Weaver and Nolan (2015) the role of the family in supporting reintegration and reducing reoffending is well established and has been illustrated in a variety of policy documents, including the National Parenting Strategy:

“Family involvement can make a huge difference, both to the ease of transition and to building on any gains made while in secure care or custody” (Scottish Government, 2012:42).

In addition, albeit broader than family contact (e.g. segregation, limited time outwith a cell, or being separated from supportive peers and family), HM Inspectorate of Prisons for Scotland (2019b) highlighted the profoundly damaging impact of social isolation for children and young people in custody. Family contact and relationships were identified most consistently by children as helping them cope with the distress of institutionalisation, preventing suicidal and self-harming behaviours, and promoting mental wellbeing, with recommendations including the need to minimise isolation, particularly for those on remand and in the early weeks of custody, the need to support engagement with family and friends, and enable access to belongings as key areas for improvement (Armstrong & McGhee, 2019). Similarly, children in secure care have repeatedly identified the importance of relationships with family and friends, while recognising these relationships can be complex (Gough, 2017; Miller & Baxter, 2019). The removal of a child can impact on the abilities of families to maintain contact while the child is in secure care or custody and to provide effective support to him/her following the child's return to the community (Gough, 2017; Weaver & Nolan, 2015). Moreover, children leaving secure care and custody may be estranged from family members, or indeed entrance to secure care or custody can break relationships, or they may find that contact is not productive or beneficial to them (Gough, 2017; Hazel et al., 2016; Scottish Government, 2015). For girls this can be even more problematic with the family context, conflict and poor family relationships often a precursor to offending and issues of sporadic and infrequent family contact and isolation on return to the community common (Bateman & Hazel, 2014; Burman & Imlah, 2012). However, children have a right to family contact unless this is not in their best interests and the importance of the involvement of families in assessment, planning and information sharing for children and necessity to take parents' views into account is enshrined in legislation. Furthermore, only 9% of children responding to the 2017 Prisoner Survey (Cameron et al., 2017) reported no regular contact with family and friends; within the sample of Smith et al. (2014:5) 34% of the boys in custody reported their mothers were the main source of support, 20% had support from both parents, 6% from fathers only, and 6% from a wider network of relatives, leading the authors to conclude that the wider needs of family members should also be taken into account.

Family support can also be important in achieving and sustaining desistance when children need to separate from previous associates, with the resulting pain of isolation and loneliness (Nugent & Schinkel, 2016). In a Youth Justice Improvement Board (2017) paper Cesaroni found that, for 61% of the children in the study in HMP&YOI Polmont, support to build relationships with their family was very important. It was also recognised that family members can have a unique position in fulfilling a number of roles associated with effective throughcare support, providing continuity, including familiar support in times of uncertainty and after formal support has ended); consistency; offering individualised, wide-ranging support based on their knowledge and understanding of the child; promoting engagement with plans and services; and being a vital part of partnership working (Hazel et al., 2016).

In practice working with families should involve:

- The adoption of a whole family approach that recognises each family is unique, takes into account family members' views and assesses and builds upon their needs and

strengths by all of the professionals involved. The principles of intensive family support as identified by the Independent Care Review (2020) may be useful.

- Preparation of child and family members for going into secure care or custody, providing as much information as possible and involving and influencing discussions about potential restriction of liberty, as well as the reasons for this.
- Involvement and engagement of families as appropriate early on and throughout throughcare planning and support, and motivating family members to participate in this.
- Family work and involvement in interventions should be promoted and in particular should be included as part of the Child's Plan when the child is subject to a CSO; is entitled to aftercare support; intends to reside with their family on return to the community; or will be released on licence.
- Promoting, supporting and seeking to address barriers to family contact where appropriate. This may include the need to undertake reparative work both between the child and their family, as well as with professionals, and being able to support responses to family crises or relationship breakdowns.
- Involving children in decisions about contact and how this happens
- Support to families, including siblings, in their own right, for example through the provision of advice, information, practical assistance and emotional support
- Support for children in secure care or custody who are parents, understanding the range of potential experiences and impacts of parental imprisonment
- Fulfilling corporate parenting duties where the local authority remains or has been the child's parent (Criminal Justice Family Support Network, 2015; Gough, 2017; Hazel et al., 2016; Malloch, 2013b; Scottish Prison Service, 2017; Weaver & Nolan, 2015).

### **Financial stability**

McAra and McVie (2022) highlight in their study on the causes and impact of offending and criminal justice pathways that a lack of employment, educational attainment and financial support was highlighted by participants as contributing to their capacity to desist from offending. In research by the Youth Justice Board (2012) 54% of children reported concerns about having insufficient income to survive on release, with the provision of financial support and legitimate income amongst the most common responses on what could be done to support children leaving custody. In Duncalf (2010) research, financial issues were cited as one of the top five issues affecting current care leavers. Where children are concerned about their ability to meet their basic needs, their ability to engage with other supports will undoubtedly be limited. The Scottish Government (2015) has highlighted issues such as housing benefit rules, delays in payments following liberation and sanctions as areas of difficulty for people leaving custody, all of which underline the importance of support in this area to children as part of throughcare support, which should include:

- Developing financial management skills
- Providing high quality information on entitlement and arranging appointments with organisations such as DWP and Job Centre Plus to ensure financial arrangements are made prior to release. Where delays in financial payments are likely, consideration should be given to how basic needs will be met.
- Applying to the Scottish Welfare Fund pre-release, for example for clothing or household goods
- Arranging access to forms of identification and bank accounts pre-release

- Local authorities and other corporate parents take positive and proactive action to ensure that children leaving secure care or custody and who qualify for aftercare support under Part 10 of the 2014 Act are aware of their entitlements to support and are able to access this (Morrison, 2017; Scottish Government, 2015).

### 3.5 Characteristics for throughcare support

A number of characteristics for all throughcare support have been identified as crucial for support to be effective and to sustain gains made while the child has been in secure care or custody. Hazel et al. (2017) state the likelihood of effectiveness of individual components and overall support can be judged on whether it demonstrates five characteristics, each of which will be discussed in turn:

- **Constructive** focused on identity shift, future orientated, motivating, strengths-based, and empowering
- **Co-created** inclusive of the child and their supporters
- **Customised** individual and diverse wraparound support
- **Consistent** throughout the journey, seamless, enhanced at transitions, and based on stable relationships
- **Coordinated** managed widespread partnerships across organisations

**Constructive:** To be constructive, throughcare support should facilitate the pathways for a child's desistance journey and identity shift (Hazel et al., 2017). Interventions should be future-focused and take a long-term perspective, with planning and preparation for return to the community commencing at the point of entry to custody or secure care (Hazel et al., 2016; Malloch, 2013a). Supports should be less focused on what the child has previously done and more on them as a child, their current strengths, hopes, needs and experiences, and how these can be built upon in the future (CYCJ, 2016; Gough, 2017). Interventions should help to develop self-esteem, which is critical in building and maintaining motivation to change (Hazel et al., 2016). It should be recognised that where support is promised but is not fulfilled, a child's confidence in their new narrative and identity can be negatively affected, they may become demotivated, hopeless and disillusioned and the risk of relapses and reoffending is increased (Hazel et al., 2016).

**Co-created:** Children, under Article 12 of the UNCRC, have the right to express their own views freely in all matters affecting them. Children are experts in their own lives and go on the journey of desistance and identity shift (Hazel et al., 2017). Engagement of children throughout the throughcare process is essential for meaningful and effective intervention. Have faith in the child's self-assessment in relation to risks and readiness to move on, really listen to what they and their supporters tell us, responding to this and informing decision-making (Bateman et al., 2013; Gough, 2017). Moreover, engagement brings a number of wider benefits, each of which are linked to desistance including cognitive and emotional change; supporting reflection on who the child would like to be; enhanced self-confidence and self-esteem; purpose; and fostering agency and empowerment (Bateman & Hazel, 2013; Wright, Francis, & Goodfellow, 2014). It is the responsibility of practitioners and agencies to engage with children and families and to provide the information and support needed to achieve this (Independent Care Review, 2020). Planning should start with the opportunities, challenges and barriers as identified by the child and make supports appeal to them and their perception of needs, goals, hopes and future; be constructive and encouraging of the benefits of engagement; ensure persistence, patience and perseverance

from staff, and flexibility to respond to the child's needs; and the ability to creatively share as much information as possible about the systems and processes they are involved in, to increase their understanding (Bateman et al., 2013; Gough, 2016, 2017; Nolan et al., 2017; Wright et al., 2014; Youth Justice Improvement Board, 2019). Children should be clear about who is involved in their plans and what support they will provide, including on return to the community (Gough, 2016). The child's family, friends and informal supporters should also be engaged throughout the throughcare journey.

**Customised:** Children entering and leaving secure care or custody will often have multiple and complex needs that require to be met (Beyond Youth Custody, 2015). It is therefore important that support is customised and individually tailored based on an understanding of how the child makes sense of their life, strengths and goals; takes diversity into account; is proportionate to need and risk; available at the point of need, appropriately paced and sequenced, with enhanced support provided at transitions wraparound and strategies built to help children face and tackle obstacles (Bateman et al., 2013; Hazel et al., 2017; Malloch, 2013a).

**Consistent:** Throughcare should be recognised as a long-term journey and therefore support should be seamless, starting at the point of entrance to secure care and custody (if not before, for example, through giving children information on what to expect on admission and regarding their rights), that builds upon plans and supports prior to entering secure care or custody, progress made during this period and continues on return to the community (Bateman et al., 2013; Gough, 2017; Hazel et al., 2017). It is recognised that there can be challenges in ensuring appropriate support is available at each stage of this journey but it is critically important to address any barriers (see for example (Scottish Parliament Justice Committee, 2019; Vaswani & Paul, 2019). Support should include contingency planning in recognition that change is hard, with relapse and setbacks part of the journey to desistance (Hazel et al., 2017). Stable, consistent supportive relationships between children and service providers are crucial and make a vital contribution to engagement, as desistance is more likely to be achieved when there is a 'working alliance' between service user and service provider (Healy, 2017; Malloch, 2013a). Moreover, for looked after children and care leavers, sincere and enduring, consistent and continuous relationships have been identified as the thing that makes the greatest difference (The Care Inquiry, 2013; Winter, 2015). Indeed, the Independent Care Review (2020, p. 19) concluded "where nurturing relationships within the family are impossible, those who care for children must know that the most important thing they do is to provide a loving, stable, safe relationship - above everything else". To achieve this, contact from staff within the community should continue during the child's period in secure care or custody and any new services who will work with the child on release should make contact early (Bateman et al., 2013; Malloch, 2013a). As children transition into and out of secure care and custody, an inherently new and challenging period of their lives, it is vitally important they are supported to maintain positive relationships with professionals and carers (Scottish Government, 2011c). The Promise implementation plan indicates that the introduction of lifelong advocacy support for care leavers will be introduced. In addition, factors identified in research to support positive relationships include staff:

- Being empathic, non-judgemental, interested, genuine, committed, consistent, caring, warm, hopeful, optimistic and available to see children through their best and worst times and to "be there no matter what".
- Having time, space, patience, persistence and perseverance (often referred to as stickability)

- Helping children to make informed choices and promoting individual responsibility but being committed to social justice and able to recognise the experiences children have been through and their stage of development. Start where the child is and focus on what they can be rather than solely what they have been or done.
- Managing expectations and legitimate exercising of authority
- Being credible, treating children as individuals and like they matter, with dignity and respect, and getting things done (Cook, 2015; Gough, 2016; Malloch, 2013a; Youth Justice Improvement Board, 2019).

**Coordinated:** In light of what has been said above, it is impossible for one agency to provide effective throughcare support, instead a range of services across secure care/custody and community settings is necessary (Bateman et al., 2013). To be effective this requires:

- Adequate co-creation of plans and the coordination of services, to prevent fragmentation and duplication, with the Lead Professional having a key role in such coordination.
- Appropriate and ongoing contact, communication and information sharing, which includes the critical importance of information moving with a child when they enter and leave secure care or custody (HM Inspectorate of Prisons for Scotland (2019b)).
- Clearly defined roles and responsibilities, which are communicated to children in ways they understand
- Values underpinning partnership and collaborative working including respect, appreciation and understanding of each agency's roles, trust, openness, and working towards a common goal.
- The ability to manage tensions and different opinions arising in what are often very emotive situations and shared responsibility for the management of risk
- Third sector organisations can often be key partners, with The Robertson Trust (2012) citing the benefits that can be provided by this sector as including: flexibility; responsivity; often being rooted in the community the child is returning to; perceived as not being aligned to any statutory agency; and in gaining trust and building relationships (Hazel et al., 2017; Malloch, 2013a).

### 3.6 Gender

The above roles of services and characteristics of throughcare support are gender neutral (Bateman & Hazel, 2014). While even less is known about the needs of vulnerable girls and young women, it has been suggested in throughcare support particular attention should be paid to (Bateman & Hazel, 2014; Vaswani, 2019):

- **Vulnerabilities:** Girls and young women in custody tend to have greater unmet support needs. Professionals should recognise and seek to address the vulnerabilities that for girls are particularly linked to offending such as relationship difficulties, experiences of abuse, victimisation and trauma, mental health issues and alcohol and drug use.
- **Relationships:** Due to the perceptions of women as relational, this would suggest the loss of roles (such as parent, carer and mother) and their loss is harder to bear when deprived of their liberty. It is important girls are supported to explore and

understand how past and present relationships have impacted on their behaviours and how alternative relationships can be developed and maintained in the future.

**Empowerment:** Given that the lives of girls in secure care and custody will often have been marked by vulnerability and subordination, empowering interventions are important in promoting self-esteem and optimism. This can be structural, for example in support to gain employment, and activities that seek to build agency, such as participation in planning, addressing past trauma, and building positive meaningful relationships (see [Section 7](#)).

### 3.7 Practical arrangements

The following section identifies the practical arrangements needed when a child enters secure care or custody, during this period, and on release (see the [Child's Journey](#) for more information on the processes children experience). These are key components of the WSA (Scottish Government, 2011c) and apply to all children under 18 years old who are remanded or sentenced to secure care or custody, and in those local authorities areas where reintegration and transitions support has been extended to older young people, in some areas this is aged under 21 and others under 26 if the young person is a care leaver. In addition, the outline what children should expect before, during and after their time in secure care. It should be noted that the legislative routes to secure care are limited (Nolan, 2019b). Scottish Ministers have statutory responsibility for placing and managing the sentences of children under the age of 16, or those aged 16 and 17 who are subject to a CSO, who have been convicted under solemn procedures and sentenced to detention (under section 205(2) of the [Criminal Procedure \(Scotland\) Act 1995](#)) and all children under 18 who have been convicted of murder under section 205(2) of the Criminal Procedure (Scotland) Act 1995. For more information in these cases see the [Child's Journey](#).

#### Entry into secure care or custody

Children entering secure care or custody should have a Child's Plan or this should be developed as soon as possible. This Plan should be based on a comprehensive assessment of strengths, need and risk, guided by GIRFEC principles and informed by appropriate structured risk assessment tool(s) and risk formulation (see the [Risk Management Authority Risk Assessment Tools Evaluation Directory \(RATED\)](#) for an overview; Murphy [2018a](#); [2018b](#)). This Plan should move with the child and be shared with the receiving secure centre or YOI (Nolan, 2019b). The aim is to share information, ensure the receiving service is aware of any needs, vulnerabilities and risks, support the provision of a continuous service by enabling pre-custody plans to be built upon and assist in the provision of comprehensive, holistic and individualised support.

The recent review of mental health provision in HMP&YOI Polmont (HM Inspectorate of Prisons for Scotland, 2019a) and Justice Committee (Scottish Parliament Justice Committee, 2019) highlighted issues with the availability and consistency of information sharing, with HM Inspectorate of Prisons for Scotland (2019a) identifying "systemic interagency shortcomings" in communication and information sharing across justice agencies that are responsible for the care and management of children entering and leaving custody. The consequences of failing to do so were starkly illustrated by HM Inspectorate of Prisons for Scotland (2019a) and accompanying review of evidence about the mental health and wellbeing of children in custody, which found that in Scotland, information about a child's risk of suicide was frequently known but consistently sharing this information at the right time, with the right people and acting upon this information was problematic (Armstrong & McGhee, 2019). They concluded "children and young people who have sadly died in custody

have often had significant interaction with community agencies before entering prison". Yet information about their history or changes in risk, whilst readily available, were not consistently or routinely shared at the point of vulnerability - on admission to prison (HM Inspectorate of Prisons for Scotland, 2019a, p. 56). Entrance to custody (as well as release) are vulnerability points where there is an increased risk of self-harm and suicide, and HM Inspectorate of Prisons for Scotland (2019a) has recommended wherever children are vulnerable, a detailed dossier of information about the child's circumstances, care and needs should be provided. The (Scottish Government, 2020) go further in detailing the supports children should receive prior to entering secure care, particularly emphasising the importance of involving children in all decision-making, support to understand and uphold their rights, the provision of information about the centre they will be residing in and the opportunity to visit in advance of any placement. Due to the nature of secure care, visits may be virtual (see the [Child's Journey](#)).

Where a Criminal Justice Social Work Report (CJSWR) has been completed, it is the responsibility of the Scottish Court Service to share this with the receiving establishment but the local authority should confirm this has taken place (Nolan, 2015, 2019a). Other relevant information should be shared with the receiving service with reference to the principle of proportionality, information sharing protocols and statutory guidance (Nolan, 2019a). These documents should be shared on the day a child is sentenced or remanded and if not previously shared, they should be brought to the initial custody review (Nolan, 2019a). In addition, for children entering secure care an individual placement agreement will be completed.

## Reviews

Reviews are an essential part of the assessment, planning and support process and in achieving each of the principles of effective throughcare practice:

"Inter-agency review arrangements, streamlined for young people who are due to be released and have been released from custody, are also critical to success" (HM Inspectorate of Prisons for Scotland, 2019a, p. 32).

Reviews should start early and be undertaken throughout a child's time in secure care or custody, although the frequency and type of, and arrangements for, reviews will vary dependent on whether the child is in secure care or custody, and their legal status and sentence length (see the [Child's Journey](#)):

- For children entering custody on remand for over seven days or who have been sentenced reviews should be held WITHIN ten working days of being detained, although within 72 hours remains best and customary practice.
- For children in custody on seven day remand a telephone call should be undertaken with the personal officer ASAP
- For children who are looked after by the local authority or in secure care, reviews will be held within 72 hours as per guidance
- Subsequent review meetings should take place throughout the child's time being deprived of their liberty, at a frequency determined by the length of sentence and child's needs or as per guidance for children who are looked after and/or are in secure care

- For those in custody, a pre-release meeting should take place at least ten days prior to liberation and prior to the SPS pre-release case management board date.

CYCJ's Information Sheet [Reviews for young people aged under 18 in custody](#) (Nolan, 2019a) provides further information on the purpose of reviews, who should attend reviews and the responsibilities of the local authorities for organising, chairing and recording reviews. To support consistency, a [template](#) for the chairing and recording of reviews for children in custody has been developed with both documents reviewed and updated on an ongoing basis.

### **During the young person's time in secure care or custody**

On entering secure care or custody, an assessment of need will be completed (Scottish Parliament Justice Committee, 2019). During the child's time in secure care or custody, work should be undertaken to meet needs and risks identified in the Child's Plan, via the provision of comprehensive, holistic and individualised support from a range of services (Scottish Government, 2020). Most children entering secure care or custody will already have a Lead Professional from their local authority, a role which should be maintained throughout the child's time in secure care or custody to ensure corporate parents fulfil their responsibilities. The Lead Professional has a range of roles and responsibilities which include:

- Ensuring that the Child's Plan is implemented, managed and reviewed properly and to co-ordinate the support described in the Plan. This includes updating and sharing the Plan after each review; ensuring any reintegration and transition planning is incorporated into the Plan; and this is reviewed in accordance with legislation.
- Maintaining ongoing contact with the child and family throughout the period and ensuring they understand what is happening at each point so that they can be involved in the decisions that affect them.
- Promoting partnership working between agencies and with the child and family
- Maintaining contact with the child's keyworker in secure care or personal officer in custody, as well as with any other agency contributing to the Child's Plan
- Sharing information and communicating with all partners
- Ensuring the child is supported through key transition points (Scottish Government, 2011c)

The involvement of all staff who will be supporting a child on their return to the community during their time in secure care or custody, not just the Lead Professional, is important. Miller and Baxter (2019) highlighted that involvement of professionals based in the community was essential in building or maintaining a bridge to the community, with the level of connectedness with the community cited as having important bearings on the level of hope or hopelessness children felt. This communicates important messages about commitment and supporting the child to rebuild a future life in the community (Miller & Baxter, 2019). This is also reflected in the Secure Care Pathway and Standards Scotland.

### **Pre and post return to the community support**

While the legislative basis for post-release support varies ([see Section 1](#)), all children should be prepared for release, with the transition planned and supported throughout (HM Inspectorate of Prisons for Scotland, 2019a; Scottish Government, 2020). For children leaving custody, this is a key vulnerability point, transition and stage of risk management,

particularly increased risk of suicide, self-harm, offending and other negative outcomes (HM Inspectorate of Prisons for Scotland, 2019a). Support is fundamental to improving outcomes and includes those released without statutory requirements and on Home Detention Curfews (HDCs) as the risk of breaching HDCs is particularly high for children, bringing significant consequences (Nolan, 2016a).

At a minimum all children should have and be involved in a pre-release meeting as detailed above and leave secure care or custody with a plan to support them in the community (Scottish Government, 2020). The plan should include information on supports under each of the areas detailed above and contingency plans that can be introduced as necessary. This plan should include support from local authorities and community planning partners, who have a responsibility to ensure resources are available for children returning to the community from secure care and custody, and can include third sector organisations (CYCJ/IRISS, 2019; Scottish Government, 2011c). It should also include details on how any aftercare entitlements will be met. The Scottish Parliament Justice Committee (2019) has also advised that upon their discharge, a dossier of information should be provided to relevant organisations such as the NHS, housing providers, social work etc. to ensure a smooth transition back into the local community.

It is important post-release support begins immediately with the child being met at the gate by a trusted and known professional if family support is not available. This support should be regularly reviewed, and continued for as long as the child requires it (Nolan, 2015).

A number of other transitions which children may experience warrant attention.

### **Moving from Secure Care to YOI**

The WSA ethos is that children should be placed in and remain within secure care rather than custody as far as possible (although at the moment children cannot stay beyond their 18<sup>th</sup> birthday) (Scottish Government, 2019b). However, the transition from secure care to custody can be unsettling and it is important:

- This is planned and scheduled for the most appropriate time for the child
- The child is given information about where they are going, what will happen when they get there and changes to structures and routines
- The identified hall manager or Personal Officer from Scottish Prison Service (SPS) attends the child's reviews prior to moving to provide and receive information. A transition meeting should be held in advance to share information about the child's past and current circumstances, their views on the move and to give the child and their family a chance to ask questions. Issues with such information sharing were highlighted by the Scottish Parliament Justice Committee (2019).
- Wherever possible and appropriate, a visit for the child and family members to the YOI should be facilitated before moving
- The secure unit should provide the YOI with full information and documentation about the child including the Child's Plan, which should be disseminated within SPS for example with NHS, education and social work as necessary.
- After transition, staff from the secure unit should be invited to the child's initial custody review meeting and any other meetings as appropriate (Scottish Government, 2011c).

The above process is for planned transitions, with it noted that unplanned transitions between secure care and custody do take place (Scottish Parliament Justice Committee, 2019). It is important that such transitions are minimised and where they happen, reviews take place and lessons are learnt so that they can be avoided in future. Where a child enters custody from the community but discloses they have previously been in secure care, YOI staff should, with the child's consent, contact the relevant secure centre for information to aid assessment and planning (Scottish Government, 2011b).

### **Moving from YOI to SPS adult establishments**

As with the move from secure care to YOI, many of the same principles will apply when a young person moves from YOI to adult prison:

- The move should be planned and scheduled for the most appropriate time for the young person (young people can on a case-by-case basis remain in YOI until they are 23 years of age if this is assessed as appropriate by SPS staff).
- The young person should be given information as detailed above
- The young person's future Personal Officer should make contact and attend any meetings prior to the young person's move
- Any relevant plans should be shared in advance to support young people continuing in training, qualifications and employment that they have started
- Post transition meetings should be arranged for within the first month of transfer and be attended by staff from the YOI, who should withdraw when necessary and in agreement with the young person (Scottish Government, 2011b).

### **Child to adult services**

Where necessary, children's and criminal justice services should be co-ordinated and agreements reached about who is the best person to complete CJSWRs, supervise any orders made and support children in custody (Scottish Government, 2011b). It may be that practitioners across child and adult services work together with the young person to allow a continuity of support and resources, ensure that any assessments and approaches utilised are age-appropriate, and that there is flexibility in enabling a service to work beyond typical age limits. Any transition between services should be planned, adopt a relational perspective, and ensure that critical information, assessments and the Child's Plan are shared (Scottish Government, 2011b). At a service level, children who offend should be included in children's service plans, community planning partnerships, and child and adult protection committees to ensure partnership working, communication and coordination of policy and strategy (Scottish Government, 2011b).

### **Putting guidance into practice**

"While good resettlement work does not guarantee that children will do well, it does offer the best opportunity for them to change and become productive members of their communities" (HM Inspectorate of Prisons and Probation, 2019, p. 5).

Scottish research findings on the extent to which these arrangements are implemented in practice vary. For example, Smith et al. (2014) found in 91% of cases reports did not make it clear whether social work support was being provided while the child was in custody and there was no specific reference to throughcare support being in place in 59% of cases. The 2016 review of secure care in Scotland (Gough, 2016) found that the support and preparation received by children in moving on from secure care was often inadequate and a number of the calls for action from children with experience of secure care detailed by Gough (2017) relate to moving on support. The findings and subsequent information on

children's experiences of secure care have been the basis for the Secure Care Pathway and Standards Scotland (Scottish Government, 2020). Similarly, in research by Gray (2011) in England and Wales, children reported post-release support was often irrelevant, repetitive and risk focused. Children felt let down by support that had been promised not being available, which resulted in a range of negative outcomes. This was reiterated by HM Inspectorate of Prisons and Probation (2019) who found too often outcomes were poor, children were not prepared for release, and support was not in place, particularly accommodation, education training and employment, and mental health services.

By contrast, in research by Nolan (2015) 65% of Scottish local authorities surveyed advised an initial custody review was always held for children in secure care and custody, 70% of local authorities advised that community based social work staff were always involved with the child during their period in secure care or custody, and all advised post-release support was available, with 77% reporting that children always had a three month throughcare plan. Similarly, research by Nolan et al. (2017) found 64% of the children sampled were receiving support from community-based social work, over half of whom reported this was the same worker they had engaged with prior to entering custody, although the level of contact and purpose of this involvement varied, as did reports on the quality of information sharing and provision. While these findings are more positive than those found by Smith et al. (2014), they show Scotland has some way to go to support transitions for children who have been in conflict with the law.

## Challenges

It is acknowledged that providing effective throughcare support is a complex task for various reasons, including:

- The high level and range of complex needs presented by many children leaving custody or secure care, who may never previously have been really 'settled' (HM Inspectorate of Prisons and Probation, 2011).
- Children may not have developed strategies to cope with transitions and are trying to renegotiate new identities for themselves (Bateman & Hazel, 2015)
- Challenges of partnership working, particularly in ensuring all key partners are engaged in the 'constantly changing landscape' of service provision. Challenges are also evident in funding arrangements and varying availability of services across local authorities (Gough, 2016; Malloch, 2013a). Difficulties in measuring effectiveness, broader outcomes and the specific impact of interventions, coupled with limitations of relying on reconviction rates is problematic (Griffiths, Daudurand, & Murdoch, 2007; Hazel et al., 2016; Malloch, 2013a). This has led Hazel et al. (2017) to suggest that in measuring effectiveness, factors such as social inclusion, positive engagement with others, lifestyle changes to promote wellbeing and distance travelled in the journey of change may be more effective.
- Sustaining engagement, with it recognised this is the responsibility of the practitioner (Bateman et al., 2013)
- Where outstanding cases have not been dealt with, the ability of children to progress an identity shift can be hampered (HM Inspectorate of Prisons and Probation, 2019)
- Wider system issues - although crucial to supporting children - are outwith the criminal justice system and a lack of coordination of such supports (such as accessing employment, benefits, health services and housing) is evident (Gough, 2017; Malloch, 2013a).
- The impact of "broader structural constraints arising from poverty and socio-economic disadvantage" which can impact on children's actions and limit their

choices and opportunity to change (Gray, 2011:235). Failure to recognise this results in the individualisation of social need and problematisation of children, families and communities.

- Differential policy and legislative framework and service provision for those children who turn 18 while in custody and increased recognition of the distinct needs of 18-25 year olds in the justice system (House of Commons Justice Committee, 2016; The Howard League, 2015).
- Desistance and identify shift like reintegration is a process - the journey is not always linear or without problems and substantial support is needed to stimulate, reinforce and sustain change (Hazel et al., 2017; Youth Justice Improvement Board, 2019). It has to be stressed that the role society has in addressing social problems and empowering individuals to experience choice and agency is crucial.

It is however, imperative that these challenges are addressed, with good practice in transitions and effective throughcare being crucial if positive outcomes are to be achieved for children (Scottish Government, 2011b). In respect of children leaving secure care, successful reintegration is essential if re-admission is to be avoided and progress sustained (Gough, 2016; Scottish Institute for Residential Child Care (SIRCC) 2009). In the Care Inspectorate (2020) review of deaths of looked after children, they were notified of the deaths of 14 looked after children, aged between 13 to 17 years, who died in tragic circumstances that were typically a culmination of life-threatening behaviours including substance misuse, self-harm and attempted suicides. Half the children had experienced placements in secure accommodation or another setting with a high level of supervision, such was the level of concern about their safety and wellbeing.

Likewise, for children leaving custody, when support is either not provided, or is insufficient or lacks coordination, factors which contributed to the child's offending are not addressed, and the risk of returning to custody is higher (Griffiths et al., 2007; Smith et al., 2014). In addition, HM Inspectorate of Prisons for Scotland (2019a) highlighted that the mortality rate for all causes of death for those leaving custody is highest in the 30 days following release, with the rate of self-inflicted deaths disproportionately high. This underlines the critical importance of ensuring such challenges are addressed and children are fully supported.

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