

Not for publication before 00.01hrs, Wednesday 2 July 2008

1 July 2008

News release

Growing Up, Shut Up

Only one social worker to every 171 children: The Howard League for Penal Reform launches campaign to improve care for children in the penal system

The Howard League for Penal Reform has today (Wednesday, 2 July) launched a campaign to improve the care of children in the penal system. The *Growing Up, Shut Up* campaign aims to give a voice to the disenfranchised and neglected children in our prisons and in other areas of criminal justice.

There are 3,037 children in custody – an increase of 182 children as young as 12 or 13 years old compared to last year. On the eve of the government's Youth Crime Action plan being published, the campaign makes a number of recommendations. A fact sheet on children in the criminal justice system accompanies this news release.

In 2002, the Howard League for Penal Reform secured a landmark judicial review, which forced the government to recognise that children in prison had the same access to Children's Services as children in the community. Yet on average, there is only one social worker to every 171 children in prison custody. In four prisons, the ratio is one social worker to over 200 children and in three prisons (Downview, Eastwood Park and Foston Hall), there is no social worker at all.

Director of the Howard League for Penal Reform, Frances Crook, said today (Wednesday, 2 July): "Our legal team has represented hundreds of troubled children in jail. Our case files tell the stories of neglected and abused children, with chaotic family backgrounds and problems ranging from mental health issues to drug or alcohol addictions.

“Yet when children enter prison they are lucky to have any help from staff, with social workers in prison expected to handle massive caseloads.

“Today we are calling for all children to be treated equally. All children should be entitled to a safe home, to a fair hearing and to being given the best chance in life.

“Criminalising and locking up troubled and neglected children as young as ten is inhumane and shameful. By neglecting them while in custody we exacerbate the likelihood of reoffending on release. It is time to rethink and restructure the way we deal with our most vulnerable and challenging young people.”

The charity has identified three themes that urgently require change and has put together detailed recommendations based on its extensive legal and research experience.

The child behind the crime

Prison Service custody is neither safe for children nor effective in cutting crime. 28 children have taken their own lives in prisons and self-injury, assaults and violence are rife. 76% children reoffend within one year of release. The few children who require custody must be held in local authority units.

In England and Wales, children are considered fully culpable for offences from the age of 10. We want to see England and Wales come into line with international standards by raising the minimum age of criminal responsibility.

We support a transfer of responsibility for children in trouble with the law to local government. The budget for custody should be given to local authorities, so that they are incentivised to care for their children properly and to intervene to prevent crime. The Howard League for Penal Reform has been working with the Local Government Association over the past two years with four pilot projects to explore how local government might better work with children in trouble with the law. It is important that any change is not merely structural but that careful thought and consideration is given to providing communities, led by local authorities, the means to deliver community solutions that prevent crime. Local flexibility and local budgets should be placed in a national framework of excellence, which could be determined by the Youth Justice Board – similar to the role of NICE in the health sector.

We suggest that every local authority sets up a Children’s Panel that would intervene when a child starts to come to the attention of the police or the YOT. Currently there is a division between children who are seen as needing protection who come under the auspices of Children’s Services and those who commit crimes who come within the ambit of the Youth Offending Team. We argue that children who are caught committing crimes are likely to be children in

need and that Children's Services should engage with them and with their families to provide support. This is the only way that enduring solutions can be found.

In addition, the panel could review select cases where children went into custody, looking at what could have been done to avoid this outcome. A representative from the courts, such as a magistrate, could sit on the panel at these reviews to be given feedback on the outcome of custodial sentences for the children involved. The panel could then inform and improve practice, while collating information about the use of youth custody and preparing reports for interested bodies such as the local crime & disorder reduction partnership.

What we're asking for:

- Government policy for all children should be based in one ministry, the Department for Children, Schools and Families
- The minimum age of criminal responsibility should be raised
- Local authorities should take responsibility for youth justice and introduce Children's Panels

Every child a safe home

The Howard League for Penal Reform legal team has represented hundreds of troubled children in jail. Our case files tell the stories of countless neglected and abused children, with chaotic family backgrounds and problems ranging from mental health issues to drug or alcohol addictions. Eventually these children end up committing crimes and are placed in prison, which is the worst place for them. When the time comes for these children to leave custody, all too often they are being treated as homeless adults by their local authorities and placed, with little or no support, in inadequate temporary accommodation such as B&Bs and hostels.

If a child is taken into custody then they are in the care of the state and should be treated the same as any other child in care. At the moment the majority of children in care, under section 20 of the Children Act 1989, lose that status when they enter custody. This makes no sense at all. In addition, when a child who does not have looked after status enters custody, then the very fact they are going to prison should be an alarm bell ringing that triggers an assessment of the child's vulnerabilities, which the child's local authority can then act on.

What we're asking for:

- Every child leaving custody should be properly supported and no child leaving custody should be housed in bed & breakfast accommodation, or other unsuitable accommodation for the homeless

Access to justice for children

Our legal team's casework demonstrates that some children do not get the legal representation to which they are entitled. Others receive a poor quality of service, possibly leading to unjustified convictions or onerous punishments. Some of the children we represent were entitled to appeal their convictions and/or sentences but did not receive the proper advice and assistance. Other children are homeless and leading chaotic lives, placing themselves at risk in the community. These children are entitled to the protection of their local authorities but do not receive the legal assistance or representation that would obtain a suitable and stable home with support for them.

Article 12 of the United Nations Convention on the Rights of the Child states that children should be "provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body". Yet the provision of legal aid and services to children in England and Wales can be a postcode lottery, with some courts granting legal aid to children and some courts refusing to. We have recently worked with children, for example, denied legal representation for possession of drugs or driving offences. Given that these can be gateway offences into more serious crimes, it is necessary that children receive proper representation and have faith in the justice system.

The new fixed fees regime for legal aid does not recognise that working with children is complex, skilled and time-consuming, requiring specialist knowledge. Fixed fees will have a deleterious impact on the quality of legal representation for children. This will have profound ramifications, leading to increased and unnecessary imprisonment, a sense of exclusion and resentment, social and behavioural problems ignored, and increased anti-social and criminal acts. Article 12 of the United Nations Convention on the Rights of the Child states that children should be "provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body". Yet the provision of legal aid and services to children in England and Wales can be a postcode lottery, with some courts granting legal aid to children and some courts refusing to. We have recently worked with children, for example, denied legal representation for possession of drugs or driving offences. Given that these can be gateway offences into more serious crimes, it is necessary that children receive proper representation and have faith in the justice system.

What we're asking for:

- All children should be entitled to free legal advice and representation for criminal and civil matters. Solicitors providing legal advice for children should be appropriately paid

Further information

Thomasin Pritchard 020 7249 7373 ext. 104
Andrew Neilson 020 7249 7373 ext. 119 07918 681 094

ISDN line available on 020 7923 4196 – uses a G722 system

A fact sheet accompanies this news release.

The Howard League for Penal Reform has an expertise in youth justice going back more than a century and our legal team has represented children in the penal system since 2002, following a landmark judicial review against the Home Office that forced it to recognise that the 1989 Children Act protects children in prison. We have consultative status with both the United Nations and the Council of Europe.

Over and above the day-to-day casework of the legal team, our current concerns and recent achievements in youth justice include:

- The SP inquiry: secured a groundbreaking public inquiry into the treatment of ‘Susan’. Susan’s self-injury was life threatening but the prison response was to place her in solitary. The public inquiry will consider issues around mental health, self-injury, children in prison and girls in prison.
- *Children in Trouble*: a partnership with the Local Government Association that aims to reduce the use of custody for children and young people and improve local services to prevent youth crime. Four schemes are being piloted across the country in Salford, Wessex, South Tyneside and Barking.
- *Violence against children in conflict with the law*: An international study of youth justice completed in partnership with Defence for Children International. A list of indicators for European governments to assess their youth justice policy and provision was presented to the EU.
- Quarterly youth crime mailings produced in partnership with Nacro, containing briefings on vital new youth justice practice, legal and policy developments to help youth offending teams and other professionals improve practice.
- *Parole 4 Kids*, an independent review of the parole process for children, published earlier this year contained recommendations on automatic oral hearings that the parole board have now implemented.

- *Children as Victims: child-sized crimes in a child-sized world*, a survey of school children on their experiences of crime revealed the extent of the experience of crime.
- An investigation into children in the penal system in Jersey, currently underway and due for publication in summer 2008.
- The Commission for English Prisons Today: the Commission, set up by the Howard League for Penal Reform with Cherie Booth QC as its president, is due to investigate youth justice as a separate strand of its work in 2008-9.
- The Citizenship and Crime Prevention programme delivered to 20,000 children in 100 schools and contributed to the National Curriculum on citizenship.
- Lord Carlile's review of the use of restraint, strip searching and solitary confinement for children in custody and subsequent campaign led to a debate in the House of Lords and a government review about to be published.

Relevant publications

Violence Against Children in Conflict with the Law, The Howard League for Penal Reform, 2008.

Parole 4 Kids: A Review of the Parole Process for Children in England and Wales, The Howard League for Penal Reform, 2007.

Children as Victims: Child-sized crimes in a child-sized world, The Howard League for Penal Reform, 2007, £5.

Children in Prison, an independent submission to the United Nations Committee on the Rights of the Child, The Howard League for Penal Reform, 2007, £5.

All available to order at www.howardleague.org