

Independent Care Review for England *Interim Report: The Case for Change*

Response of The Care Leavers Association (August 2021)

In what follows, we focus on areas where The Care Leavers Association (CLA) has experience and settled views. We have therefore not commented on all areas covered by the Interim Report. As a care-leaver-led charity that has been active for two decades, we have considerable experience in relation to some issues covered by 'The Case for Change'. We first give our overall view of the relevant contents of the report. We follow this with specific responses to some of the questions asked at the end of each chapter.

Firstly, we welcome the establishment of the Review. It is an overdue recognition of the importance of this subject. We note that the Report is only an "early attempt to synthesise what we have heard so far and transparently set out what we think the biggest problems in children's social care are". We hope the Review will remain open-minded in seeking answers to these problems, particularly in seeking the views of looked after children and care leavers.

We welcome recognition that the 'placement market' is broken and that far too many children are moved far from their family homes, forcing multiple separations (pp.12, 57/58). We would, though, have welcomed a stronger recognition that the increased use of private-sector 'market' solutions to the problems of local authorities in finding and funding suitable care is strongly implicated in this problem. The fracturing of direct local authority residential care provision, over several decades, has led to an illogical system in which cost factors and short-term crisis management far too often trump the long-term best interests of children. Those best interests clearly include, in the vast majority of cases, being kept in the area of their strongest social ties. A system that needlessly shuffles looked after children around the country cannot be morally defended.

We believe that a more proactive approach needs to be taken in relation to the sufficiency duty, ensuring that there is a broad range of provision available across the country to meet the needs of children in care and care leavers. Currently the 'placement market' does not provide enough suitable provision to meet the varied needs of young people. Too often we hear of local authorities putting young people into provision not because it meets the needs of the young person but because it's the only provision available. This needs to change.

Amidst the report's discussion of supportive relationships, there is little recognition of one of the most important areas of relationships through which young people in care can gain support; from each other. Care leavers can, and do, routinely help each other, in the same way that other young people (siblings, friends) can, and do. The idea of facilitating this support through extending stability, by allowing young people to remain in shared supported living

beyond 18, for example, is absent from the report. More generally, facilitating ways in which young people in care can support each other can help fill gaps left by many inadequate adults in their lives, whether in their birth family or working for the care system.

We also welcome the Report's recognition of the existence of care experienced adults of all ages, adults that society has "failed to examine our relationship to." (Foreword). This includes the overdue questioning (p.54) of the very concept of 'leaving care' since, as the Report points out, even adults of "30, 40 or 50" never leave the care and oversight of their parents. This insight should guide the development of a leaving care system in which age-related cliff edges (typically, at 16, 18, 21 and 25) are, as far as possible, removed.

We welcome recognition that "The use of unregulated accommodation for children under the age of 18 should come to an end." (p.62). More explicitly, we do not recognise the need for any distinction whatsoever between the care offered to young people before and after one's 16th birthday. No good parent would countenance such a distinction. Young people making the transition from childhood to adulthood need proper care and support at all times. Standards for 16-18 accommodation should be as high as those for under 16's and must include the provision of care. The concept that young people over 16 leaving care should be autonomous, left to their own devices and receive only support is a red herring. Young people can still be autonomous and learn to take more control over their own lives within a framework of care. Being cared for and being autonomous are not mutually exclusive. Every good parent knows this.

We welcome recognition of the inequality of the 'Staying Put' arrangements for young people in foster care having no residential care equivalent (p.69). The 'Staying Put' initiative was a positive development which effectively raised the leaving care age to 21 for many young people. In principle, it opened the promise to do the same for all care leavers. In practice, that is yet to happen. This inequity needs to be finally resolved.

We very much welcome the call for support for care leavers seeking access to their care records, with no reference to age (p.71). The CLA, and other groups that we work with, have long called for such support. We also note the report's recognition of the findings of 2019's Care Experienced Conference in this area. The recognition of this issue by the Report offers an opportunity, if implemented sensitively and with a focus on choice for care leavers, for local authorities and other agencies (such as the voluntary sector, which has many historic care records) to extend a genuinely caring role to care leavers of all ages.

We note the point that much social worker time is "absorbed by activity away from direct work with children and families" (p.77) and the Report's focus on improving the quality of social workers. This is valuable, but a more important issue is relatively neglected. From the perspective of looked after children, the quality of their foster carers or residential workers, as caring substitutes for parents, is of far more relevance to their daily lives.

We welcome the focus on returning to the principles of the 1989 Children Act (p.81). We would particularly encourage that attention be given to the importance of choice and rights for looked after children, as set out in that Act's accompanying regulations and guidance.

We welcome the focus on early intervention, as well as the recognition of the inequalities which underly the reasons for children and young people coming into the care system. However, we are very disappointed that, of the report's 80 pages, only two pages are spent looking at the issues facing foster care and residential care. Foster care and residential care are the bedrock of the care system, where the most positive outcomes can be achieved. It is incomprehensible that the case for change pays such scant attention to this key area.

Similarly, although there are some fleeting references throughout the report, there is no specific analysis or comment on the leaving care system. For too long, leaving care has been the poor relation of the care system when placed next to children in need, child protection and the looked after service. If we do not deliver a quality leaving care service that is fully resourced to adequately support the transition to adulthood, that provides the opportunity for young people to flourish, then much of the work undertaken earlier is wasted. Currently the care system says that when you become an adult at 18 we are, by and large, no longer interested in you and no longer willing to care and support you. This needs to change.

We are disappointed that the case for change seems to have adopted previous government positions on a "hierarchy of care". Kinship care and adoption are the preferred choices, with the care system the last resort. We welcome the expansion of kinship care and adoption, where it is right for the young person. However, for other young people the care system will be the best option. Politicians and policy makers need to accept that the care system, when it works well, can be the most effective long-term option in many cases.

We do not agree with the case for change view that there is a question over the continued use of residential care, (p.62). When done well, residential care can be a positive option for some young people. The principles behind residential care are sound. However, the current 'marketisation' of residential care has led to some significant problems. High profit margins, a lack of suitably qualified staff and a lack of high-quality regulation and inspection will, inevitably, lead to poorer outcomes.

Over the past ten years, The Care Leavers Association has listened to around 10,000 care leavers through our various projects and initiatives. The majority of those care leavers have experienced residential care. Their experiences have been, as one might expect, widely varied. The same is true of those who have experienced foster care. We have, however, heard of many instances where residential care worked for the young person and was, even for those who had experienced foster care, their preferred option. Well-resourced and regulated residential care needs to be a stable part of the care system of the future.

Although the case for change mentions such issues as mental health, education and criminal justice, the discussion is limited. More detailed analysis is required in these areas. One key issue that links all these areas is the fragmentation of government departments when it comes to children in care and care leavers. Often, policies created by the Department for Education do not match up with those from the Ministry of Justice, Department of Health and other government departments. This leads to disjointed provision. Much more needs to be done to ensure that all government departments create policies that respond effectively to the needs of looked after children and care leavers.

Responses to Specific Questions

Chapter One: Context

'What do you think the purpose of children's social care should be?'

We have long believed that the children's social care system should, as far as possible, seek to replicate the care that good parents give to their children. Our vision is of "A good life in care, a good life after care". That's what all good parents want. Going into care should be a fresh start rather than a sticking plaster. It should not be the assumed goal of the care system to return children to their parents. In some circumstances this will be possible and welcome. However, for a large majority of young people in care, return to living with their parents will not be in their best interests. The care system needs to provide stability and a long-term framework to enable those young people to flourish as adults.

Chapter Four: Care must build rather than break relationships

'If we were creating care today that was good enough for all our children what would it look like?'

We would start from a principle of equality. This particularly applies to the leaving care system, where the CLA has long advocated a 'right to return, right to remain' up to at least the age of 25. All the available research shows that that's what the vast majority of young people experience from their birth families (indeed, well beyond 25 in many cases). A lot of poor outcomes are simply explained by the early age of independence (for the vast majority) at 18. If all children in the country were forced to leave home for such independence at the age of 18, not just looked after children, only a fool would be unable to foresee the catastrophic social consequences. It would be a policy that would be reversed within a fortnight.

The 1948 Children Act provided – in the words of the relevant Under Secretary of State, Kenneth Younger – that "local authorities may provide hostels for their young people up to the

age of 21, and may allow others who have come from normal homes to live there, too” (House of Commons Debates, 2nd Reading, 7th May 1948; cols.1614-15). It ought to be a source of shame to our society that, three quarters of a century later, we haven’t even matched that basic offer, let alone gone beyond it.

In this respect, the voluntary sector could play an important role. Firstly, it has a long history, over many decades, of successful innovation in the leaving care field. Indeed, there are already voluntary sector initiatives that support some (though far too few) care leavers with accommodation, support and care beyond the age of 18. Secondly, it offers an institutional break from local authority care that many care leavers may need – and will often seek – at the age of 18.

We also need a proper discussion about profit-making from children’s social care. We are not against private companies – or, indeed, voluntary sector organisations – delivering aspects of the care system. They do, as has often been noted, offer opportunities for innovation and for the raising of standards. Local authorities often need challenging in such areas. However, hedge funds do not buy up social care providers out of the goodness of their hearts. It is done because these providers are profitable. It is reasonable to ask whether excessive finance should be taken out of the sector in the form of (sometimes ludicrously high) profits or, instead, reinvested to better support children and young people. We also know that the quality of care offered by private providers ranges, regardless of how well they attempt to market themselves, from the excellent to the appalling.

All professionals within the Children’s Social Care sector must be provided with the right tools and resources to properly support children and young people. This must include suitable training. All professionals need to have an understanding of trauma and how it can affect children in care and care leavers. Moreover, all staff working in residential care, where they are often working with young people with more complex needs, must be better qualified and supported.

All human beings experience challenges and difficulties at some point in life. Children in care, care leavers, foster carers and other professionals are no different. Unfortunately, these challenges are often brought under the heading of “placement breakdown” and in too many situations a young person is moved. The care system should seek to work with all parties to try to resolve difficulties. Placement moves, with their inherent disruption and instability, should be the exception and not the norm.

Throughout our work over the last 20 years, listening to and supporting care leavers, the absence of love in the care system, of simple affection and loving attention, has been a growing issue. This was also a major theme of the Care Experienced Conference in 2019. All children and young people, including those in care, need the unconditional love and care of adults to enable

them to grow and develop. Thought needs to be given to how those working in the care system can be allowed to do what that system claims to do, to 'care'.

Beyond this, there is currently a lack of even basic therapeutic support running throughout the care system. Too often it is only those young people who have been diagnosed for some form of challenging behaviour that receive therapeutic support. This is a glaring omission, given that annual official data repeatedly reminds us that the majority of looked after children enter care due to abuse and neglect in the home. There should be an assumption that all children and young people in care may need some level of therapeutic support. Such support should be trauma-informed. Also, it should be available to care leavers of all ages, at any stage in their life. We know, from our widespread work amongst care leavers of all ages, that many carry the trauma of their care experiences, and of the experiences that led to their entry into care in the first place, throughout their lives. Such trauma was never addressed, sometimes barely even recognised, whilst they were in care.

'How can care help to build loving lifelong relationships as the norm?'

Given that the majority of children enter the care system due to abuse and neglect in the family home, focussing too exclusively on retaining parental ties can be limiting. Also, many substitute carers, such as foster carers or residential workers, disappear from the lives of care leavers very rapidly after the age of 18. A focus on building 'lifelong loving relationships' should, therefore include a strong focus on: 1) siblings (keeping them together or, at the very least, facilitating continued ties), 2) friends, both other looked after children and other children outside the care system. The help that children provide for each other is often neglected by an adult-centric world that frequently sees itself as the font of all wisdom, 3) stability. Relationships grow over time and often have an ebb and flow to them. Geographic stability, home stability and school stability all facilitate the growth of long-term friendships and other ties over a period of years, hopefully decades. Adults from outside the care system often take for granted the benefits of stable, enduring and supportive friendships forged in childhood. This is, in our experience, far less the case for many care leavers, for whom social isolation on their journey into adult life is a frequent challenge. Given the regular shredding of relationships that results from frequent moves and cliff-edge care disruptions, this difference is unsurprising.

As well as having opportunities to form and develop meaningful relationships, children in care and care leavers, like all children, need to be able to develop a sense of their personal identity. This is often difficult, in the absence of one's birth family. We would like to see attention given to how children and young people can be supported to develop a sense of their unique identity. This would include the opportunity to understand their journey into, and through, the care system.

'What changes do we need to make to ensure we have the right homes in the right places with the right support? What role should residential and secure homes have in the future?'

Good local authority residential care, in the local authority area, should be a central feature of a system which emphasises choice for young people, especially the increasing numbers of teenagers in the care system. Good foster care offers many benefits to young people in care, but without a good localised residential care sector alongside it, foster care will remain unstable in some respects and offer limited choice to many young people, perpetuating the problems some experience in foster care settings.

In order to address the sufficiency issue, local authorities should have control over all residential care provision for children in their area. They should then be responsible for building, or commissioning, all residential services. This would enable them to better forecast, plan and manage the number of residential places available, in response to local need and demographics. Such control would still allow them to commission different providers – public, voluntary or private – to run services. After all, different providers offer routes to innovation and the improvement of quality. They can also offer choice to young people, over the type of care that best suits them. The principle of Gillick Competence, the 1989 Children Act and the 1989 UN Convention on the Rights of the Child all stress the capacity of children and young people to make important choices over their lives. As a society, we've had decades of practice at this. The least we can do for looked after children is offer them some choice over the type of care they receive. Everyone gains from this.

The decision to send a young person to a secure setting is complex and fraught with difficulties. It is a challenge to balance the deprivation of liberty and the need for safety and security. We have seen examples of excellent secure provision where young people are given high quality care, as well as having their own views considered in all decisions. We have also seen provision where young people are locked up and left for long periods at a time. Secure provision has a role, so long as it is well-resourced and buttressed by a robust inspection and monitoring regime that involves looked after children and care leavers who have, themselves, experienced secure provision.

Chapter Five: System Factors

'How can monitoring and inspection make the most difference to children's and families' experiences and engender greater freedom and responsibility in the workforce?'

Various innovations in the State involving looked after children and care leavers in inspection teams have been developed in recent decades, right back to the early 1990s. These should be revisited, with a view to providing a stable mechanism whereby looked after children and care leavers can be a central feature of future inspection and monitoring processes.

We need robust monitoring and inspection to ensure that improved outcomes are being achieved. Central to monitoring and inspection must be the voices of children and young people in care. Regulators must place more weight on the views of young people, most of whom, in our experience, are quite capable of explaining how services can be improved.

Also, more immediate action is required in relation to inadequate judgements. Many Ofsted inspection reports continue to highlight the appalling experiences of young people in some extremely poor services. Providers are often given excessive amounts of time to correct this situation, during which time the young people are left still receiving poor services. This is an irresponsible and neglectful approach to correcting clear defects in care.

'What will need to be different about this review's recommendations compared to previous reviews so that they create a tipping point for improvement?'

It should engage, more than it has so far, with the findings of the Care Experienced Conference Report (2019) and 'Our Care, Our Say' (2020). These two recent events and documents drew together large numbers of care leavers of all ages, in an inclusive and open discussion. Importantly, both were organised by, and for, care leavers, thus freeing them from any professional agenda-setting or filtering. Their conclusions offer a starting point for how the care system can be visualised. Moreover, there is now a critical mass of younger care leavers connected through social media. Many of these can be reached without going through intermediary organisations (a process which can, often unwittingly, have distorting effects) far more readily than was possible before the internet. There are a wide range of voices to be listened to as part of this Review, but if we focus too much on the voices of professionals and organisations who provide care then we'll tend to get similar conclusions to those which already underpin the current system. We may get helpful tweaks, but we won't get much innovation because we won't have a new vision of what the care system can and should be.

The Review so far has included some consultation with children in care and care leavers. Although this is welcome, the review has not fully consulted with children and care leavers from a wide range of circumstances and backgrounds. Moreover, consultation is not full participation. Looked after children and care leavers must be at the centre of developing solutions as part of this Review. If you want to know how any new solutions may or may not work, you need to listen most to the voices of those who are experiencing the current system, or who have experienced it, as children. The Report notes (pp.13/14) that we need systemic change and that neither a 'top-down' nor a 'bottom-up' approach has all the answers. That is certainly true, but it's also true that a genuinely bottom-up approach, centring the views of looked after children and care leavers, has yet to be tried. If it were tried, our experience suggests that the Review would get as many useful proposals for systemic change as it could wish for.