



ALL PARTY PARLIAMENTARY GROUP FOR  
**CHILDREN**

**Chair:** Baroness Massey of Darwen

**Vice-Chairmen:** Jessica Lee MP, Baroness Walmsley, Baroness Blood, Bill Esterson MP, Baroness Berridge

**Secretary:** Baroness Howarth of Breckland **Treasurer:** Earl of Listowel

**Clerk:** Heather Ransom

There was a meeting of the  
**All Party Parliamentary Group for Children on:**  
**Tuesday 10<sup>th</sup> December 2013**  
**4:30-6:15pm, Committee Room 4A, House of Lords**  
(booked in the name of Baroness Massey)

## **Children and the Police inquiry:**

### **Oral evidence session 2: 'The detention of young people in police custody'**

This was the second meeting of the APPG's inquiry into 'Children and the Police'. It explored the experience of children and young people in interacting with the police at the point of arrest and within custody suites. It examined good practice used by police forces and considered how engagement can be improved. This meeting also addressed current policy and legislation in relation to the detention of young people in custody.

**Members in attendance:** Earl of Listowel, Baroness Walmsley, Baroness Howe, Baroness Blood, Baroness Brinton, Baroness Butler-Sloss

**Speakers:** Assistant Chief Constable Dawn Copley (Greater Manchester Police and Association of Chief Police Officers lead for custody), Frances Crook (Howard League for Penal Reform), Chris Bath (National Appropriate Adult Network), Aika Stephenson and Sherando (Just for Kids Law), Lucy Russell and Samantha (Howard League for Penal Reform, UR Boss Project), Gareth Jones (Association of YOT Managers and Head of Service at Cheshire West, Halton and Warrington Youth Offending service), Pauline Burke (Cheshire West, Halton and Warrington Youth Offending Service)

**Voluntary and community sector in attendance:** John Clements (HM Inspector of Constabulary), Alan Greene (Greater Manchester Police), Peter Hutin (Sussex Police), Dave Shephard (Sussex Police), Marion Sandwell (Youth Justice Board), John Metcalfe (BASW), Mary O'Shaughnessy (SCYJ), Lucinda Wicks (Association of Lawyers for Children), Annamarie Hassall (NCB), Amber Eustace (NCB), Enver Solomon (NCB), Heather Ransom (NCB), Rosie Eatwell-White (NCB)

**Apologies:** Baroness Massey, Baroness Howarth, Lord Bishop of Leicester, Lucy Powell MP, Jessica Lee MP, Mark Garnier MP, Wendy Scott (TACTYC), Jonathan Stanley (Independent Children's Homes Association), Jatin Patel (Fixers), PC Caroline Adams (Sussex Police), Cllr Rachel Heywood (Lambeth)

Earl of Listowel chaired this meeting in Baroness Massey's absence.

Earl of Listowel welcomed everyone to the meeting.

**Dawn Copley:** explained her role as Assistant Chief Constable for Greater Manchester Police and the College of Policing's lead on custody issues.

#### *Three key messages*

- Custody is not a good environment for young people so it is important to keep them out of it wherever possible.
- Good advocacy for children in custody is very important.
- The law as it applies to 17 year olds must be clearer and more consistent.

#### *Recent legal changes*

Police custody is an area that has a clear legal framework and there are special provisions for children and young people. In the last 18 months there have been two significant legal changes to the Police and Criminal Evidence Act (PACE) that affect children and young people:

- Amendment to Code G which concerns ascertaining whether it is necessary to arrest a child or adult and bring them into custody. There has been a national rollout of a training programme for police constables to ensure they understand changes to the Code and implications for practice.
- A judicial review in April 2013 ruled that 17 year olds should be given the same legal safeguards as younger children. The PACE Code of Practice (Code C) was changed in light of this announcement so that all 17 year olds are given access to an Appropriate Adult but due to PACE Act not being amended 17 years will still continue to be treated as adults in some other respects. The law needs to be amended to ensure consistency.

#### *Children and young people in custody*

- If a child is arrested they are brought before a custody sergeant at a police station who will assess if it is necessary to detain them.
- If so, an Appropriate Adult is contacted and the child can also have access to independent legal advice. Their health and wellbeing is also assessed.
- The child may then be searched and placed in a separate area of the custody suite which looks and feels like a cell.
- There are no separate custody officers for children and young people.
- Custody suites can be noisy, scary and intimidating.
- The child will go through the process of interview, fingerprints and photographs etc.
- At the end of the process they will be released on bail if charged, or released without charge.
- Given the potential trauma of custody there need to be ways that children and young people can be interviewed away from custody suites whenever possible and appropriate. Schemes to do this are being piloted in Cheshire.

#### *Detention of children in police custody prior to appearance in court*

- PACE clearly states that that if children are to be kept overnight after charge then they should be transferred to the care of the local authority.
- In practice, local authorities do not always have the accommodation available and there is a concern about the number of children being detained in custody.
- As local authority resources decrease, this could become a growing concern.
- This is a chronic breach of this legislative requirement and could imply that children's rights are not considered important.
- Assistant Chief Constable Copley has raised these concerns with the Home Office.

#### *Importance of good advocacy*

- To ensure the best possible outcome for the child, it is key that the child is well supported and advised in custody.
- There should be more guidance for Appropriate Adults so they understand their role fully.

### *Groups at risk of criminalisation*

- Dawn felt that children and young people whose parents are offenders are themselves at risk of criminalisation, along with children and young people who are not in education, employment or training (NEET).
- Children and young people with SEN and mental health needs or with addiction or substance misuse problems are also at greater risk of criminalisation.

**Frances Crook:** introduced herself as Chief Executive of the Howard League for Penal Reform.

### *Statistics*

- From 2008 to 2011, the Howard League found there had been 1 million child arrests.
- Over a two year period they found there had been 100,000 overnight detentions of children.

### *Issues to consider*

- Frances stated that children who are trafficked or forced to be involved in crime should be recognised as victims and not treated as criminals.
- Police sometimes take children into custody for child protection reasons but this is inappropriate.
- It is rare for children to commit serious offences. Instead, children are being arrested and sometime detained overnight for minor offences.

### *Areas for improvement*

- Frances stated that the age of criminal responsibility should be raised from 10 to 14 and that this should be a recommendation of the inquiry.
- Excessive arrest and detention of children undermines police legitimacy and is bad for community relations. Restorative justice involving the victims is far more positive.
- Child victims are often themselves criminalised and a large number of those involved in crimes are themselves victims of crime of some kind.
- Arrest and detention can have devastating consequences for children and young people, who often do not understand the implications, such as the inability to pursue certain careers once they have any kind of criminal record.
- Dealing with children in this way is a complete waste of police resources. Given the current cuts to police funding, time should be spent tackling serious crime instead of arresting children.

Frances concluded by stating that studies show that once children come into contact with the police they are then far more likely to continue to have contact with the police and commit further crimes.

**Chris Bath:** explained the role of the National Appropriate Adult Network (NAAN), a membership organisation for frontline practitioners. He explained that there is a statutory duty for local authorities to provide an Appropriate Adult for children in police custody. Adults with mental health needs should also have access to an Appropriate Adult but this is not statutory.

### *Experience of NAAN's members*

- Chris said that experience is variable, with restorative justice shining through as an example of good practice. However, he has come across many shocking examples of bad practice.

### *Issues to consider*

- Families are not receiving support to address their children's challenging behaviour. Instead, the police intervene and the child's behaviour is treated as criminal.
- The treatment of 17 year olds was raised. Section 38(6) of PACE still states that 17 year olds cannot be transferred to the care of the local authority. The issue of consent for 17 year olds is also crucial; they are treated as adults which can leave them vulnerable.
- A good experience on the day might not be best in the long-term. If young people agree to accept a caution this can severely affect their future life chances.

- Parents are not always the best Appropriate Adults even when supportive and can be naive because they do not understand the adversarial system and the technical responsibilities of an Appropriate Adult.

#### *Groups at risk of criminalisation*

- Chris mentioned children in care as particularly likely to be criminalised. This is often due to police being called out to deal with incidents which, if they had occurred in a family home, would have been dealt with by the family without police involvement
- He also stated that children and young people with SEN or mental health needs were more likely to be criminalised. He pointed out that because an Appropriate Adult is always called for a child in custody, this means that the police do not have a prompt which requires them to consider whether a child has any additional needs that make them particularly vulnerable.
- 10-13 year olds are the age group least likely to ask for a solicitor. A current issue is that some members have experienced the Legal Aid Agency refusing to pay for a solicitor if an Appropriate Adult calls out solicitor against the wishes of the child or young person.

#### *Areas for improvement and recommendations*

- Chris explained that improvements are not just the responsibility of police, but of a much broader group. Local authorities in particular need to reduce criminal proceedings involving children.
- PACE 1984 needs to clarify what constitutes a child.
- Data needs to be shared more effectively both prior to and following Appropriate Adult attendance
- Protocol for dealing with looked after children needs to be changed so that issues are dealt with in the same way they would be in a family home.
- Statutory provision for mentally vulnerable adults would ensure support for children with mental health needs as they transition to adulthood.
- The age of criminal responsibility should be raised.
- Legal representation should be mandatory for all children.
- Consideration of appropriate safeguards where summary / on-street justice is applied.

**Peers** posed the speakers questions:

- Is it possible to pilot a scheme whereby a group of local representatives, including a lawyer, social worker, or police officer, could meet on a voluntary basis to help a family?

**Dawn Copley:** agreed that in theory it sounded like a good idea and suggested that local children's safeguarding boards might be interested in looking at how to put together safeguarding plans in that way.

- Does a police officer's interaction with children get considered as part of their regular appraisal?

**Dawn Copley:** stated that in her experience she had never come across any reference to work with children and young people as part of a PC's appraisal, unless work with children and young people was part of a specific role they held.

- Is a custody officer able to overturn the decision of a PC to bring a child into custody and does this ever happen in practice?

**Dawn Copley:** believes that this is increasingly happening, particularly since the 'necessity test' (Code G) came into force. However, data on this specific question is not collected as standard by police forces.

- What qualifications are needed to become an Appropriate Adult?

**Chris Bath:** said that there are no mandatory qualifications needed to become an Appropriate Adult. One of the reasons NAAN emerged was because of the call from practitioners for better standardisation. NAAN provides training and guidance but practitioners want the role to be more professionalised (whether delivered by paid staff or volunteers).

- How important is language?

**Dawn Copley:** If there is an obvious language issue an interpreter is provided. However, there is another issue, and that is the use by police of very specific and technical police language that others may not understand. The police also should not assume that the Appropriate Adult will understand police terms.

**Chris Bath:** Language is critical. It is not sufficient just having the Appropriate Adult there to translate for the child – all adults should be using accessible language that does not leave the child feeling excluded. NAAN have produced an 'Easy Read' guide to Appropriate Adults, initially for those with learning disabilities but Easy Read has proved popular more widely.

- What should the age of criminal responsibility be?

**Frances Crook:** The Howard League believes it should not be below 14, as it is in Germany and Italy. There, the police do not deal with children below that age. The current UK legislation takes power away from parents.

- How can the issue be resolved of children being detained in custody because of a lack of local authority accommodation?

**Dawn Copley:** stated that the legislation is clear, but the problem is the consistent application of that legislation. Police and local authorities need to be reminded of the statutory duty, and also need to remember the difference between needing a bed for the night, which happens fairly regularly, and needing a secure bed for the night, which happens far more infrequently. The problem is that it has become normal for those involved to think that local authority accommodation will *not* be provided.

**Chris Bath:** pointed out that non-secure accommodation need not be in the child's local authority but could be anywhere, and the law allows for the 'home' local authority to then be charged for it.

The Earl of Listowel brought the question and answer session to a close and welcomed the next group of witnesses.

**Aika Stephenson:** explained the role of Just for Kids Law in bringing about the judicial review which led to changes in procedure regarding 17 year olds in custody.

*Experience as a solicitor for children and young people*

- Some of the children she has worked with have been told by police that if they did not call for a solicitor then the arrest and detention process would be quicker.
- In her experience, Section 38 is a tick-box exercise and is not applied correctly. If a local authority cannot provide accommodation then the police should reconsider holding the child overnight.
- Training is crucial: in every other profession, people engaging with children and young people are trained specifically in how to deal with children and young people.
- Lawyers do not specialise in working with children, even though they specialise in other areas.

**Sherando:** said that he felt the police needed to be more educated. He said that too often the police treat children as if they are adults, are rude, or treat children as criminals before they have committed a crime. He believes that if a child has this experience when they are young, interaction with the police is likely get worse as they get older. The result is that children and young people do not treat the police as a public service but instead as an enemy that they should avoid.

**Lucy Russell:** presented some of the views of three young people in custody that the UR Boss Project work with.

*Key messages from the young people*

- The police should do more to understand why young people commit crimes and should help them with the problems in their lives.
- Strip searching is degrading.
- Young people tend not to complain if they feel there is a problem.
- In their opinion, the police target certain groups.

#### *Descriptions of being arrested and detained*

- The young people had had several bad experiences of being arrested and descriptions of feelings included 'scared', 'threatened' and 'picked on'.
- They stated that in their experience they were not treated well in police custody.
- Some mentioned that police can be kind, providing a meal and hot drink.

#### *Views on how the police could improve their practice*

- The police should show more respect and use their authority in a positive way.
- The police should not make assumptions.
- They should be less violent and not use unnecessary force.

**Samantha:** gave examples of some negative experiences she and those she knew had had with the police. She said that she felt children understand a lot more than adults give them credit for and they should be believed and listened to by the police, who come across as a kind of gang.

**Gareth Jones:** explained that the Association of YOT Managers for which he is the Chair felt that young people's interface with the police can be fraught with problems, and he agreed with Jacqui Cheer's comments from the previous meeting regarding anti-social behaviour.

#### *Appropriate Adults*

- An Appropriate Adult can be key.
- Gareth believes the Appropriate Adult should never be a parent. Supportive parents can inadvertently collude with the police in an effort to get their children out of custody as fast as possible. They may sign to accept a caution without realising the long-term damage this can do to their child's prospects. Parents who are antagonistic to Police can also prompt poor outcomes for young people.

#### *Police engagement with children*

- In Cheshire, police deal with three quarters of child arrests outside the custody suite.
- More training is needed for police officers in custody suites, particularly on how to spot whether a child is vulnerable.
- PCs dealing with children often aren't specialists, meaning that vulnerabilities get missed, and those on the beat can often treat young people as if they are adults.
- UNCRC states that an under 18 is a child but this is often forgotten, particularly for 17 year olds.

#### *Local authority accommodation provision*

- The issue of secure beds was brought to the light in Cheshire by Ofsted.
- More transparency is needed to monitor what happens in custody suites.

**Pauline Burke:** explained her role with the divert programme, a liaison and diversion programme in Cheshire West, Halton and Warrington for children who come to the attention of the police.

#### *How the scheme works*

- YOT workers, Children and Mental Health Services(CAMHS) and the police work together.
- When a child is arrested, the divert programme is immediately notified. The divert programme then carry out an assessment to decide whether an intervention can be done with the family or whether the issue needs to go through the courts.
- A CAMHS worker may intervene if there are communication problems.

- Although originally funded by Youth Justice Board and the Sainsbury's Centre for Mental Health, funding will run out in March 2014.

#### *Benefits of the scheme*

- It can help to identify children and divert them away from the criminal justice system.
- Interventions can be provided quickly without the need to involve the criminal justice system.
- Interaction with the police can be quite shocking for families, and so the liaison and diversion team can mediate and provide explanations and support.
- In assessments of the scheme so far, the January to March cohort of young people showed that of the 58% who engaged with the scheme, only 15% went on to reoffend.

**Peers** posed the speakers questions:

- Is the liaison and diversion scheme replicated elsewhere and is funding stable? Is data being collected on the scheme?

**Pauline Burke:** explained that a 2011 evaluation of the scheme was inconclusive but she believes that this was due to the nature of the study and the difficulty of having a control group. As for the scheme being replicated elsewhere, there is a national liaison and diversion network encompassing 155 adult and youth schemes. As for funding, the scheme was first funded as a pilot, then became a pathfinder, and is now bidding to become a pilot again in order to secure money. However, it has been decided that the scheme is too effective to lose and so the local authority will keep it going but certain areas of provision such as CAMHS will be lost.

**Chris Bath:** added that Norman Lamb MP was the relevant minister for this area, and that he had made a commitment to liaison and diversion for children and adult's mental health, with around £25m of funding from NHS England money.

- Are the police considering basic training? Are there simple things which could be done which do not cost much money, like mentoring schemes for example?

**Dawn Copley:** said that it is important thing ensure that training is as relevant as possible given how often the police interact with children and young people. Given that other professionals receive specific training for work with children, it would be hard to say that the police should not also receive this training.

**Chris Bath:** stated that according to a 1998 UN survey, 50% of countries in the UN provide specific training to their police on working with children and young people.

- Did the young people present at the meeting believe that the use of mobile phones can help when recording any bad experiences with the police?

**Sherando:** replied that this tactic has been used by many young people and that there are several videos online which show the police acting outside the law. One of the problems is that the police tell young people that it is illegal to film them, when in fact it is not. This shows the importance of young people knowing their rights. He also stated that he felt the police should constantly be scrutinised on the job as this would make them less likely to behave outside of the law.

**Samantha:** raised the issue of police screening and how new recruits are assessed as suitable.

**Dawn Copley:** stated that all new recruits have to pass challenging initial tests and are then subjected to an extensive background check. Once trained, they have to complete a two year probation period. As for incidents when the police step outside the law, it must be remembered that all police are bound by a code of professional conduct and it is never acceptable for them to step outside of this code. If they do, there are processes for dealing with this. She said that it was important that the public have confidence in the police complaints procedure and she encouraged anyone people to ensure they do make complaints if

necessary, to ensure that issues are dealt with. It was also important to ensure children and young people knew their rights and were not intimidated by authority figures. The work by police in schools was an example of how this can be achieved, but many of these schemes risk being lost due to funding cuts.

- Once a police officer has been in the force for many years, there is a risk of them becoming cynical. Is any sort of assessment or screening repeated later in their career?

**Dawn Copley:** said that no such 're-selection' process took place, although you would at all stages in your career be supervised and if officers fail to perform there are formal process to deal with that. She stated that she felt the conduct of officers when carrying out their duties should always be a priority.

**Earl of Listowel:** thanked all of the speakers and the attendees and drew the meeting to a close.