

# Missing years of abuse in children's homes

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**ABSTRACT**

This paper reflects upon the historic abuse of young people living in children's homes. Beginning with a recognition of 'individual abuse', it explores, first of all, the reasons why young people were abused, including: (1) the status of childhood and being in care; (2) the application of 'approved' treatment methods; (3) the failure of managerial, organizational and inspection systems; and (4) the institutional critique and the popularity of preventative policies. Second, by identifying common themes arising from this account, it is suggested we need to rethink the way abuse has been conceptualized. Individual direct abuse, sanctioned abuse, organized systematic abuse and system outcome abuse are discussed. Finally, the paper reviews recent changes in law, policy and practice, including the Children Act 2004, designed to prevent abuses happening again. It is argued that challenges still remain in addressing structural inequalities, improving protection, balancing needs and rights, extending protection to different groups of young people and in having a preventative vision for children's homes.

**INTRODUCTION**

It is now evident that there are missing years from our history of child welfare. Recent inquiry reports have documented the years of physical, sexual and emotional abuse of children and young people who were living in children's homes, particularly between the mid-1960s and mid-1980s – although contemporary historical research, derived from the accounts of adults who were in care earlier, suggest a longer missing history of abuse (Rafferty & O'Sullivan 1999).

During the 20-year period, from the mid-1960s, there was no central government collection of information, or systematic research. Investigative journalism by Dobson reported that police estimates for the UK, based upon interviews with young people, suggest as many as one in seven may have been abused during this time: most (92%) police forces in the UK investigated the 'historic abuse' of children in care during the 1990s, 2000 former residents made abuse

allegations, 200 homes were investigated and 50 care workers were imprisoned, charged or arrested. Twelve of the hundred young people who were abused in children's homes in Clwyd, North Wales have since committed suicide (Dobson 1996, 1998; Wolmar 2000).

However, we do not have a detailed picture of the prevalence or types of abuse. A review of the research evidence for the Kent Report in Scotland highlighted the lack of comprehensive data on the extent and forms of abuse in residential care due to definitional confusion, under-reporting, unrepresentative sampling and the absence of any central mechanism for recording investigations (Kendrick 1997). This situation is further complicated by alleged police tactics, including 'trawling' for information and promises of large sums of compensation for victims, and although there have been a few examples of poor detective work, there has to date been no legal challenges to the findings of the main abuse inquiries (Roberts 2004).

More significantly, as Colton has noted, 'remarkably little serious attention has been paid to the possible factors associated with the abuse of children and young people in residential institutions' (Colton 2002, p. 34).

This paper explores three questions. First, why were children and young people abused in British children's homes? This discussion will focus on the period between the mid-1960s and the mid-1980s, covered by the inquiries detailed below, but recognizing that this is a selected period in a longer 'missing' history. Second, what common themes can we identify from this historical account and how do they further our understanding and conceptualization of abuse in children's homes? Third, will major changes in law, policy and practice make such abuses a thing of the past?

In addressing these questions this paper will draw upon a wide range of sources including, more substantially, an analysis of major inquiries into abuse: the Scottish Kent Report, the English Utting Report, the Welsh Waterhouse Report, the Aycliffe Investigation, the Leicestershire Inquiry and the Pindown Report (Levy & Kahan 1991; Department of Health 1993; Kirkwood 1993; Utting 1997; The Scottish Office 1997; House of Commons 2000). The historical account will also build upon the work of Stein (1993), Wardhaugh & Wilding (1993) and Colton (2002), and the conceptualization of the work of Gil (1982), Bibby (1996), Williams of Moysten (1996) and Kendrick (1997). Finally, although the analysis will draw upon the inquiry reports from the different UK jurisdictions, and the international literature identified above, the discussion of policy and practice changes will focus primarily upon English developments.

### WHY WERE CHILDREN AND YOUNG PEOPLE ABUSED IN CARE?

A starting point is to recognize the responsibility and motivations of the abusers in targeting and exploiting vulnerable children and young people for their own purposes. This is a consistent theme identified in the major inquiries identified above (Kirkwood 1993; Utting 1997; House of Commons 2000). However, these inquiries, as well as the literature discussed below, suggest that what is often seen as 'individual abuse' is more complex and needs to be considered in a wider context.

To begin with, we now know that many young people were not able to tell those acting in *loco parentis*

that they were being abused. The system that was created to protect and care for some of the most vulnerable children and young people in our society, those who themselves had been abused, neglected or had experienced many difficulties in their own families, let them down. As the Kirkwood, Utting and Waterhouse Reports document, many young people were not able to turn to any one they could trust, who would listen to them, who would believe them and who would help them (Kirkwood 1993; Utting 1997; House of Commons 2000). But why was this so? After all, we are not talking about some distant Victorian age with its punitive industrial schools and reformatories dedicated to the reform of 'dangerous' youth, or even the 1940s with its poor law legacy of 'less eligibility' (Pearson 1984).

This was a 20-year period from the mid-1960s, a period which saw the dawn of the new professional era of social work and the growing influence of the new welfare thinking, particularly upon child care law, policy and practice (Frost & Stein 1989). It was also the period which witnessed the creation and expansion of social service departments that embraced the corporate managerial revolution in local government. These young people were betrayed against the background of what at the time were hailed as 'progressive' professional and managerial changes (Parton 1999). Why was this so?

### Status of childhood and children in care

First of all, they were diminished as 'children.' During most of this period society's attitude towards 'children' as a group was at best ambiguous in terms of listening, believing, and in effectively and sensitively communicating with them (Hill *et al.* 2004). Societal responses to teenagers was frequently polarized, either reducing them to the passivity of 'children' and 'victims' or elevating them to the culpability of 'adults' and 'villains' (Franklin 1986, 1995). As Hill *et al.* (2004) comment, 'the refusal to accept that children and young people are competent witnesses to their own lives has confined them to a state of impotency, at the mercy of adults, some of whom, as history teaches us, cannot be relied upon' (p. 84).

But these were just not any 'children' but children in care. They were children and young people who, in the main, came from very poor families and neighbourhoods (Bebbington & Miles 1989), who had experienced neglect, physical or sexual abuse – although the latter was rarely recognized by the new professional social workers of the day, other

professions, or more generally by society (Parton 1991). Many had difficulties within their families, which often manifested itself in problems such as not going to school, running away from home or getting into trouble, and some were children with physical disabilities or emotional and behavioural difficulties whose families were unable to care for them (Berridge 1985; Morris 1998). They were 'looked after' in different types of care homes: small and large children's homes, assessment centres, approved schools and community homes with education, boarding schools and residential special schools. Central government, local authorities, voluntary organizations, private agencies and religious orders were responsible for their welfare (Berridge 1985).

A complexity of feelings surrounded their removal to care. They were often confused, angry, frightened, and their self-esteem was low (Page & Clark 1977). As the Kirkwood and Waterhouse Reports clearly document, it was this emotional vulnerability that was so cruelly exploited by those who physically and sexually abused these young people, often destroying trust and creating fear including, in the case of the many sexually abused young men, shame compounded by homophobia (Kirkwood 1993; House of Commons 2000).

We also now know from the voices of young people themselves that many during these years felt powerless and stigmatized by their day to day experiences of living in children's homes (Page & Clark 1977). Military-modelled regimes in the larger isolated homes and practices such as institutional clothes stores, 'welfare case' school meals and the bulk buying of everything from sugar to sanitary protection reinforced a dependency left unchallenged by the increasing confusion regarding the role of residential child care within the new order of preventative and diversionary child care services (Cliffe & Berridge 1991). Also, societal attitudes, which, as late as the 1980s, still saw many young people in care as 'orphans' and 'criminals', often reinforced their low self-esteem (Page & Clark 1977; Stein 1983).

Some young people, just a few, as we now know from the inquiries, did speak up at the time. They told their stories, but they were not believed. The Leicestershire Inquiry documents that they were either seen as troublemakers telling 'tall stories' for which they were often severely beaten to deter further 'lies', or as fantasizing, the latter interpreted by the new psychodynamic social work thinking as 'symptomatic' of deeper emotional problems such as inner libido conflicts (Kirkwood 1993).

### Social work practice and 'approved' treatment methods

During these years, social work practice, influenced by psychoanalytic theory and behavioural psychology, contributed in their own way to the abuse of children in care (Stein 1993). The use of regression therapy in some of Leicestershire's children's homes and the so-called Pindown system of control in selected Staffordshire homes became, in effect, sanctioned abuse – although both practices represented a crude violation of psychodynamic and behavioural therapy.

As forms of treatment they were not hidden or secret practices, but existed openly. The Staffordshire Pindown Report contains the department's detailed documentation of different Pindown programmes, including their underlying principles, and their relationship to other preventative and rehabilitative work. 'Total Pindown' was made up of 'persistent isolation', 'removal of ordinary clothing', 'enforced wearing of shorts or night clothes', 'loss of all privileges', 'gaining permission to go to the toilet', 'no visits, writing or reading materials', and, finally, being barred from 'attendance at school' (Levy & Kahan 1991, p. 120).

The Leicestershire Inquiry Report records in detail how Beck, the head of the Beeches children's home, gained widespread support for his treatment methods including, during his 13-year period of employment, endorsement by two successive directors of social services, senior managers, field and residential social workers, and three child psychiatrists. As with Pindown there were documented treatment programmes. These included deliberate oral and physical confrontation, the provocation of temper tantrums and 'restraining' young people, many who were teenagers, in wooden play pens. As Beck was so successful in gaining support for his treatment approach within the organization, complaints of abuse were responded to and defended by senior management as either a misunderstanding of his 'therapeutic' methods or 'symptoms' of disturbed behaviour by young people. Beck's work with young people at the Beeches children's home was nationally acclaimed, being shown in a BBC television programme, 'Brass Tacks', and written about in *Community Care* (17–23 February 2000, p. 4), the premier national social work magazine (Kirkwood 1993).

It is perhaps not too difficult to understand such sanctioning without detailed scrutiny. Although disowned and ridiculed with hindsight, both Beck's version of regression therapy, rooted in psychoanalytic theory, and the Pindown regime, derived from a

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behaviourist perspective, seemed at the time to offer a solution to what was seen as an intractable problem: the care and, more pertinently, the control of some of the most difficult young people in the care system. Senior and middle managers, field and residential social workers, the courts and the police, politicians, parents and the public were all at one time or another desperate to find a solution to this problem without looking too closely or too critically at what was on offer once the young person was removed into care (Stein 1993).

### The failure of managerial, organizational and inspection systems

These children and young people were also failed by the management of social services, cruelly ironic in view of the promises of the 1968 Seebohm Report and subsequent managerial reorganizations to be 'in the interests of the clients' (Parton 1999). Against a background of resistance to their incorporation within the new social service departments by the 'barons', the predominantly male heads and senior staff of the old approved schools, assessment centres and larger residential establishments, and the growing strength of the public sector unions, there was an abdication of managerial responsibility: senior management either did not know what was going on or were prepared to sanction whatever was happening or proposed (Campbell 1996). Also, as research at the time into family links showed, they were not likely to know from their field social workers, who often had very little contact once the young person was removed from home, or from the young people's families for whom visits, stressful at any time, were rarely encouraged and supported (Millham *et al.* 1986).

There is evidence that on the occasions when complaints were made by individual residential workers they were suppressed and resulted in the dismissal of staff who 'whistle blow' (Davies 1998; Taylor 2000). Colton (2002), discussing the Waterhouse Report, notes that at Bryn Estyn in Wales there was a 'cult of silence' by staff. The substantial difficulties in exposing and responding to abuse when faced with opposition from political and executive power at the highest level within a local authority are vividly illustrated by the experiences of the Director of Social Services for Sunderland. His attempts to instigate criminal proceedings in respect of sacked care staff from the Witherwack House was thwarted by senior councillors, officials, unions, police and, finally, the chief executive who failed to support his wider inves-

tigations into abuse in care, thus resulting in 'gagging' and the director's resignation after only 10 months. The persistence of the victims finally led to the conviction of two staff, a National Society for the Prevention of Cruelty to Children inquiry cataloguing physical and sexual abuse at Witherwack House during the 1970s and 1980s, and an apology by the Clwyd Council (Davies 1998). In Clwyd, North Wales, the Council prohibited the publication of the Jillings Report into allegations of widespread sexual and physical abuse in their children's homes when their insurers warned that they could not indemnify any victim's claims for compensation resulting from its publication (Dobson 1996).

The official safety net, the government's inspectorate, also failed to recognize the scale and extent of abuse during these missing years. They were very much of their day, their objectivity unintentionally colluding with the adult institutional perspective – no attempt to listen to, or seriously engage with, the small voices from below. As Cawson's (1997) research showed, the infrequency of statutory 'rota' visits could only give a superficial picture. This meant that both regional and central government offices were inadequately informed about what was happening and therefore unable to either challenge or offer leadership – the essential role and rationale of government (House of Commons 2000).

There was also a failure to recognize the early warning signs from the haunting accounts of older victims, such as Graham Gaskin, and the earlier inquiries, including allegations of organized sexual abuse at the Kincora Boys Home in East Belfast, published in the first half of the 1980s (MacVeigh 1982; Hughes 1985).

### The institutional critique and popularity of preventative policies

It was also ironic that the greater theoretical understanding of the way institutions worked had such little impact (Goffman 1961; Foucault 1977). The classical 1960s and 1970s 'institutional critiques' heightened awareness of the culture and power of institutions and the way they could de-humanize 'inmates'. In doing so, they provided the opportunity to open up the abuse minefield as well as potentially contribute to a transforming theory and practice. But these new insights fell on very selective ears. By and large, their sociological perspective was beyond the highly individualistic focus of the traditional social worker, and for the new cache of radical social workers, nourished

on a diet of very basic Marxism, they just became another weapon in the arsenal to attack the authoritarian structure of the controlling State. Radical social work did not want to know about more bricks in the wall and even less about those behind the wall (Pearson 1975).

Subsequent policy developments, however progressive in themselves, did not serve these young people well. The persistence of the institutional critique and the closely linked and enduring popularity of community care, both underpinned by a rare academic and political consensus, the rise of permanency planning to greatly increase the use of adoption and fostering, and the managerial and professional drive to prevent and divert young people from entering care all reinforced the same message: residential care is bad (Berridge & Cleaver 1987).

During the 'missing years', residential child care increasingly operated in a climate of denial and welfare planning blight as well as in a philosophical and theoretical void. It was against this background of low morale, understaffing and lack of purpose that the door was left open, often unattended, to abusers, many who were paedophiles, and, as we have seen, to the peddlers of half-baked versions of psychotherapy and crude behaviourism.

## CONCEPTUALIZING ABUSE

An earlier analysis has described how inequalities in society envelope residential care (Stein 1993). The most significant of these arising from this historical account are first of all, *gender* and *generation* – the abuse of vulnerable children and young people, by adults, most frequently, although not exclusively, male adults. Masculinity is also a defining feature of bullying or peer abuse in children's homes (Colton & Vanstone 1996; Stanley 1999; Barter *et al.* 2004).

The most widely used international conceptualization of institutional abuse identifies individual direct, programme, organized and system abuse (Gil 1982; Bibby 1996; Williams of Moysten 1996; Kendrick 1997). It has also been argued that, in addition or separately, the abuse may include institutional or overt racism, disablism or homophobia (Stanley 1999; Morris *et al.* 2002). Such commonalities point to the need for any theoretical explanation of abuse in children's homes to recognize the structural context of such abuses. However, *generation* is rarely conceptualized as a comparable indicator of inequality as gender, social class, ethnicity or disability, and yet it is very difficult to make sense of the experiences of

children and young people without recognizing the construction of childhood as a period of dependency and powerlessness and perceiving children and young people as an identifiable social group with their own set of interests (James *et al.* 1998; Hill *et al.* 2004).

A second commonality lies in the exclusion process. All these young people were living apart from their birth families. There is powerful comparative and historical evidence showing how excluding people from ordinary social life, in camps, gulags and institutions, and stereotyping them, leads to the normally humane behaving abnormally inhumanely to others (Wardhaugh & Wilding 1993). Exclusion can lead to depersonalization and a moral invisibility – 'the silencing of moral considerations' (Bauman 1990, p. 132). The missing years of abuse can be viewed as a short period in a much longer institutional history going back to 'paupers' in workhouses and 'lunatics' in asylums. Labelling and removing from the community some of its most vulnerable members may lead to the acceptance of processes under the guise of 'treatment' or 'therapy', or the development of cultures which deprive the 'inmate' of their basic humanity – as was the case in many of the children's homes reported on in the inquiries discussed above.

This historical account suggests a need to rethink some of the ways abuse in children's homes has been traditionally conceptualized.

### Individual direct abuse

From the inquiries referred to in this account, there is clear evidence of individual direct abuse, usually classified and separated as physical or sexual or emotional abuse, by adults (House of Commons 2000). However, what is less recognized is that the boundaries between these categories of abuse frequently overlap. Many young people who were physically and sexually abused were also emotionally or psychologically abused, and sexual abuse frequently involves physical violation (House of Commons 2000). All forms of individual direct abuse are thus likely to have longer-term psychological consequences.

### Programme or sanctioned abuse?

The use of regression therapy in Leicestershire's children's homes, the Pindown system of control in Staffordshire and the use of 'confrontational' physical restraint methods at Aycliffe were part of approved child care policy, either within their respective Departments, or in the case of Aycliffe, by the Board

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of Managers (Department of Health 1993). Gil's (1982) widely used categorization of these abuses as 'programme abuse' fails to capture the 'behind the programme' philosophy, the wider organizational context and 'beyond the programme' levels of responsibility. I would argue that we should conceptualize such abuse as *sanctioned abuse* – abuse by commission or omission, of interventions in the lives of looked-after children and young people.

This would include the failure of staff, by omission, to intervene in specific abusive practices which often become normalized in a home's culture. Reported examples include restraint methods known as 'decking', the use of arm and wrist locks to 'deck' young people on the floor, and a punishment system known as 'walking the gauntlet', requiring those who had broken the home's rules to walk, stripped to the waist, between two rows of staff and young people and be beaten by them according to their will (Department of Health 1993). Sanctioned abuse could also include some forms of what has been referred to as religious abuse, where, for example, young people have reported very severe punishments for the 'sins' of bedwetting and disobedience, and have been condemned because of the 'evil ways' of their mothers who conceived them out of marriage (O'Kane 1996; Wood 1998).

### Organized or organized systematic abuse?

The debate continues as to whether there were organized paedophile networks targeting children's homes during these years. What is evident from police investigations is that paedophiles in senior positions worked together, employed other paedophiles, shared in the abuse of the same children and young people where they worked – and also other children who were not in care – and reached influential positions in the child care system (Hayman 1997). There is also evidence of children and young people being abused by adults from outside of their homes (Davies 1998; House of Commons 2000). Against this background, we need to recognize *organized systematic abuse* – the abuse over time of children and young people by different members of staff working within the same home, or other adults from outside the home.

### System abuse or system outcome abuse?

The failure of management and practice is also a common theme identified in the inquiry reports (Utting 1997; House of Commons 2000). As outlined

in this account, this has included (1) management not knowing what was going on in children's homes and inadequate line management, (2) peer violence – research suggests that young people are more likely to be at risk from other young people than from adults (Barter *et al.* 2004); (3) unsatisfactory placement policies and processes; (4) inadequate recruitment and personnel policies; (5) little or no external advice; and (6) low levels of trained staff (Warner 1992; Berridge & Brodie 1998; Barter *et al.* 2004). In addition, many of the homes, although by no means all, were large, isolated and very inward looking. These failures are generally referred to as system abuse, which, drawing upon the work of Gil, Bibby and Williams of Moysten, can be described as the failure of law, policies, practices and procedures to protect children and young people (Gil 1982; Bibby 1996; Williams of Moysten 1996). Such failures also raise wider issues about the value and worth of looked-after children and young people, the status of those who looked after them, and the resourcing of the child care system during these 'missing years'.

There is also a substantial body of research, powerfully amplified by the voices of young people themselves, which shows how substitute care generally fails to compensate them, so by the time they leave care their life chances are very poor indeed: social isolation, unemployment, poverty and homelessness feature significantly in many of their lives. The social and economic costs to these young people and society is enormous (Biehal *et al.* 1995; Stein 2004). Children's homes could also be judged on their outcomes: the quality of care they provide and how they compensate young people to overcome the problems they had on entering care. This would suggest redefining system abuse as *system outcome abuse*, to go beyond a failure to protect. By this new definition, system outcome abuse could be defined as the failure of law, policies, practices and procedures to protect, compensate and promote the maximum outcomes for looked-after children and young people.

### WILL CHANGES IN LAW, POLICY AND PRACTICE MAKE ABUSE A THING OF THE PAST?

Since 1997, when the Labour government was elected, the modernization of children's services has been central to their social inclusion agenda. More specifically, the government, in its response to *People Like Us* (Utting 1997), accepted the majority of recommendations for safeguarding children living

away from home, and this has led to a raft of initiatives designed to improve children and young people's rights to protection, participation and provision.

### Protection

In April 2004, the Commission for Social Care Inspection for England was created to provide better protection through the inspection process, and the Children Act 2004 has introduced a more integrated inspection framework led by the Office for Standards in Education.

The Sexual Offences Act 2003, introduced in May 2004, extends checks for convictions to a wider range of sexual offences in respect of staff caring or supervising children. In addition, there are provisions in the Children Act 2004 and the accompanying paper, *Every Child Matters: Next Steps*, for a Children's Commissioner for England, a Director of Children's Services to lead Children's Trusts and Local Safeguarding Children's Boards with statutory powers, measures aimed at strengthening the political, organizational and managerial arrangements for safeguarding children.

Another part of the British government's strategy to improve protection has been the setting-up of the General Social Care Council and its UK counterparts by the Care Standards Act 2000. Its gradual implementation process between October 2001 and April 2005 includes responsibility for codes of conduct and practice for social care workers and employees, social work education and the registration of social care professionals.

### Participation

Against a background of increased user influence and involvement in public services, the children's rights agenda, including the adoption of the United Nations Convention on the Rights of the Child by the UK government, and 'new paradigms within social science that have increased our understanding of the child as a competent social actor' (Sinclair 2004, p. 107), young people's participation in policy decision-making has become a central platform of government policy. It is a requirement of all departments to have plans for involving children and young people in their decision-making (Children and Young People's Unit 2001).

More specifically, the Children's Commissioner role will include 'the need to ensure children and young people's voices are heard and they are involved

in the design and delivery of service' (Department for Education and Skills 2004, p. 8). Also, there is government financial support for A National Voice, the young people's in care organization, as well as initiatives to improve participation as part of the government's Quality Protects Policy Initiative (Department of Health 1999).

### Provision

In addition to the provisions detailed above, in England, the Adoption and Children Act 2002 (from April 2004) gives young people the statutory right to independent advocacy when making a complaint about local authority services, and the Children (Leaving Care) Act 2000, introduced in October 2001, strengthens the law in respect of care leavers.

There have also been changes in existing provision. The number of young people living in local authority children's homes has been greatly reduced, and most homes are now smaller, locally based and more integrated within social services managerial systems of accountability including specialist teams and inspection units. Also, in comparison with the past, young people spend less time in children's homes – it can be a short interlude, for many young people less than 6 months, rather than a long care career (Sinclair & Gibbs 1998; Department of Health 1998). Quality Protects, a 5-year government programme (1999–2004) linked to clear targets to improve social services for looked-after and vulnerable children, was supported by a £375 million children's services special grant (Department of Health 1999).

These changes in protection, participation and provision should go some way in safeguarding children from the severity and scale of past abuses. However, there are still grounds for caution.

### Structure: gender and generation

A recognition of the structural context of abuse, particularly the way inequalities in generation and gender relations pervade residential care through the abuse of children by, predominantly, male adults, suggests there are no simple solutions to overcoming abuse in our children's homes. To some extent, such abuses, like abuse within families, will reflect the historical balance of changing relations between men and women and adults and children. This provides the context for the different forms of abuse detailed above.

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It is too early to assess whether the changes outlined above will contribute to a significant change in this balance. However, a major opportunity to afford children and young people equal legal protection as adults from violence within families was lost by the failure to legislate in the Children Act 2004 for the end of 'reasonable chastisement'. This legitimating of abuse at best contributes to ambiguity and at worst to violence against children and young people wherever they may be living.

Also, a 2-year study assessing the impact of changes introduced since *People Like Us* has found no improvement in bringing perpetrators of child sexual abuse to justice, thus undermining efforts to prevent unsuitable people working with children. The same study highlights the delay in improving arrangements for child witnesses, the lack of accessible information for children on recognizing abusive behaviour and inadequate treatment for abused children (Stuart & Baines 2004).

### Protection: meeting developmental needs – independent investigation?

Young people's rights to protection through improved regulation, registration and inspection seem incontestable in the context of the revelations of abuse detailed above, although there is a need for these changes to bed down, as there have been four changes to the inspection structure in as many years. In addition, the introduction of a single regulatory and inspection body, responsible for national minimum standards, as well as public monitoring and the reporting of target achievements, will have to be well resourced. Also, improving protection will mean developing expertise in the inspection of the growing market of private and independent providers of children's homes.

But not all groups are protected. The government rejected Utting's (1997) recommendation that local authorities should register private foster carers. We do not know how many of these children are at risk.

Also, these increased protective measures will need to be geared to the primary purposes of substitute care – to compensate and assist young people developmentally, and, for some, to prepare them for adulthood. As Wolmar (2000, p. 18) has commented on the Waterhouse Report 'creating completely sterile children's homes, in which the residents face little risk of abuse but in which it is impossible for them to thrive, will be as much of a failure as the past *laissez faire* policies which led to this disaster.' This raises a

more uncomfortable question: can 'formalised' residential care meet young people's emotional needs (Smith 1997)?

In many European countries the appointment of an independent Children's Commissioner is seen as representing the government's commitment to protect children. However, unlike similar roles in other UK jurisdictions and European countries, the provisions contained within the Children Act 2004 seriously compromise the independence of the role. The Commissioner will only be able to investigate individual cases if directed by the Department for Education and Skills and can only report to Parliament through the Education Secretary. The Children's Rights Alliance (representing 130 groups), the UK Youth Parliament and other Children's Commissioners have variously criticized the proposal as 'the weakest model', 'just a token exercise' and 'not truly independent or effective' (Snell 2004, pp. 30–31).

### Participation: balancing needs and rights

Third, as regards rights to participation, it has been argued in this paper that a contributory factor in the abuses of the past has been the diminishing of children and young people in general, and the impact of labelling, stigmatization and institutionalization on looked-after young people in particular. Against this background major shifts in law, policy and practice outlined above that embrace children's participatory rights seem very positive.

However, achieving effective participation remains an ongoing challenge. It requires a clear conceptualization of participation recognizing the different levels of power, the different forms of consultation, the different groups of children and young people, the distinction between decisions relating to individual and groups, and between private and public domains. Further complexities include interpreting what children and young people are saying, the status of their views within the wider policy process, and the impact of their views – the outcomes of their participation. Does it make any difference? A research review of recent initiatives suggest there is still a long way to go in respect of most of these areas (Hill *et al.* 2004; Sinclair 2004). As Sinclair (2004) has suggested 'the challenge for the next decade will be how to move beyond one-off or isolated consultation to a position where children's participation is firmly embedded within organisational cultures and structures for decision making – to offer genuine participation to children that is not an add-on but an integral part of the



way adults and organisations relate to children' (p. 116).

As suggested above, for young people living in children's homes, many who are recognized as having mental health problems, their participation has to be linked to meeting their emotional needs (Melzer *et al.* 2003). For it is often in a failure to balance needs and rights that practice is polarized between a crude and narrow pathologizing which reduces young people to receptacles of professionally defined need – as exemplified *in extremis* by the use regression therapy in Leicestershire children's homes or Pindown in Staffordshire children's homes – or a shallow and token legalism which rejects all needs in favour of rights – as exemplified by the non-intervention by staff in allowing young people to lie in bed all day when they should be at school, or in allowing them to leave a children's home knowing that they will be picked up by pimps around the corner.

#### **Provision: institutional regimes – improving quality**

Fourth, as detailed above there have been changes in children's homes. But young disabled people, young people with emotional and behavioural difficulties living in large residential schools, young people in hospitals and young people in prisons and young offenders institutions may still be at risk. Research has shown that disabled children are more likely to be abused than non-disabled children and both practical advice and guidance on how to protect them is inadequate (Utting 1997; Kendrick 1997; Stuart & Baines 2004). Also, due to lack of notification, the safeguards in the Children Act 1989 are not applied to young people in health establishments (Stuart & Baines 2004). The government rejected Utting's (1997) recommendation to remove children from prisons – in fact numbers are increasing – and there are serious concerns about safeguards, welfare and conditions (Stuart & Baines 2004). All these groups are still potentially at risk of institutional regimes – through segregation and the reduction of 'moral proximity' (Bauman 1990, p. 69) – and thus abuse including so-called treatment programmes that may deny them their basic humanity.

Also, preventing system outcome abuse is a major challenge. Research studies shows large variations between good and very poor children's homes which cannot be explained by differences in the young people who live there. Poor homes are badly managed, unstable, lack agreed goals and are characterized by a delinquent culture in which young people are often

bullied and sexually harassed by other young people (Sinclair & Gibbs 1998; Barter *et al.* 2004). The young residents are also likely to run away and get into trouble through involvement in crime, prostitution, or being a victim, after going to live there.

Many of these young people, not surprisingly, are very miserable and 40% have thought about killing themselves (Sinclair & Gibbs 1998). Although, as Sinclair and Gibbs found, this also needs to be considered in the context of their earlier unhappy experiences of family life. Also, a majority of the young people living in children's homes have already 'broken down' in foster care and have experienced several moves before leaving care (Sinclair & Gibbs 1998; Wade *et al.* 1998). For some of these young people, having to cope with changing carers, friends, neighbourhoods and schools, on several occasions, means they become increasingly detached – from family, friends, care, school and society.

Preventing system outcome abuse will be assisted by the government's target setting agenda, but it will also require a substantial investment in human resources – well-managed and qualified staff (Frost *et al.* 1999). Also, in the context of recent research evidence, there should be a more comprehensive approach to the prevention of peer abuse in children's homes (Barter *et al.* 2004). A national strategy combined with monitoring, effective management, intervention and support for victims may reduce levels of peer violence (Hicks *et al.* 2003; Barter *et al.* 2004).

#### **Children's Trusts: a coherent vision of prevention?**

Finally, will young people in children's homes be more protected by the proposed Children's Trusts? The envisaged organizational arrangements reflect a strong emphasis on prevention through having a school base and inter-agency links with education and health. There is a clear vision in *Every Child Matters: Next Steps* of early intervention or what has been described as primary and secondary prevention (Department for Education and Skills 2004). However, although there is some reference to the role of foster care, there is far less recognition of the contribution of children's homes – indeed no reference at all. If children's homes are not to be identified with failure, as in those missing years, and play a key role in tertiary prevention, by helping young people overcome past difficulties and to contribute as useful citizens, then a more coherent vision of primary, secondary and tertiary prevention will be required.

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