



Who Cares? Scotland's Report on the Criminalisation of Care Experienced People

Thursday 26th April 2018



Who Cares? Scotland [WCS] is an independent advocacy and influencing organisation working with care experienced people. We provide direct advocacy to care experienced young people, as well as opportunities for national and local participation. WCS aims to provide care experienced children and young people in Scotland with knowledge of their rights. We strive to empower them to positively participate in the formal structures they are often subject to solely because of their care experience. At WCS we utilise the voice of the care experienced population of Scotland to inform everything we do as an organisation.

Identifying Challenges and Opportunities for Change in Scotland:

WCS have compiled this report of our policy and consultation work with care experienced people, to inform the Howard League's ongoing project: 'Ending Criminalisation of Children in Residential Care', and wider work. As an organisation, we fully support the aims of the Howard League to work for less crime, safer communities and fewer people in prison. We strongly believe that more must be done in Scotland to reduce the criminalisation of children and young people and welcome the Howard League's project to focus on those experiencing residential care, as some of the most vulnerable to criminalisation.

Over the past four years, we have spoken to many of our care experienced members, about various aspects of the criminal justice system. These include helping them to inform or co-produce consultations on the police practice of stop and search, the effects of the Disclosure system and the Minimum Age of Criminal Responsibility Bill (please see Figure 1 for a full overview). Through this work, we have built a picture using anecdotal evidence, of how and why care experienced people are more likely to be criminalised and what this feels like, in their own words.

This summary report will focus on the main issues our members tell us matters to them in relation to the areas of criminal justice system we have consulted on. It will then include key areas for improvement from their perspective, which recommend potential pathways to creating positive change.¹

Outcomes for Care Experienced People:

We know that care leavers are overrepresented in the criminal justice system in Scotland, with a third of those surveyed in HMYOI Polmont in 2015 self-reporting as care experienced.² In 2014, 50% of prisoners in Scotland identified as having been in care at some point in their life,³ and a report published in 2013 identified that a third of young offenders had experienced living in care.⁴ Furthermore, statistics reveal that although those who have been in care only make up an estimated 0.5% of the general population, they make up 33% of Scotland's youth offender population and 31% Scottish adult prisons.⁵

¹ Direct quotes and stories from care experienced people are italicised and embedded throughout, these are drawn from the range of material listed in Figure 1. If you would like copies of specific WCS reports, please let us know.

² Scottish Prison Service (2015), *Prisoner Survey 2015*. [NB: There are difficulties with understanding and identification of care status raising doubts on the accuracy of these figures, but we rely on these figures in the absence of other information].

³ Broderick, R, McCoard, S & Carnie, J (2014), *Prisoners who have been in care as 'looked after children'*.

⁴ Scottish Prison Service (2013), *14th Survey Bulletin*.

⁵ Scottish Prison Service (2016), *Prisoner's Survey 2015 – Young People in Custody*.

As this report will show, there are many reasons why care experienced people face higher rates of criminal convictions. These include: over-involvement with, and a feeling of stigmatisation by the Police; increased scrutiny in care placements; participation in difficult formal processes, all of which are rooted in the lived experiences of being in care. We support organisations in Scotland, such as the Centre for Youth and Criminal Justice, who state that children in care experience a form of ‘double jeopardy’ as by being placed in care they are often exposed to further risk factors which make them vulnerable to criminalisation.⁶

We are determined to connect care experienced voices with those who have the power to influence change. Scotland must ensure that going into care does not mean you have a higher chance of becoming criminalised and therefore, have poorer outcomes. This is part of our vision to achieve a lifetime of equality, respect and love for all care experienced people.⁷

Figure 1:



⁶ CYCJ (2017), *Response to Consultation on the Proposed Draft Police Act 1997 and Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018*.

⁷ Read more about the WCS vision here: <https://www.whocarescotland.org/who-we-are/our-vision/>

Corporate Parenting Duties

Part 9 of the Children and Young People (Scotland) Act 2014 places statutory corporate parenting obligations on 24 public sector bodies in Scotland. Corporate parents must ensure that their practice does not impede on the wellbeing of care experienced young people. Each corporate parent must also promote the interests of young people and provide opportunities for them to participate in wider society.

When elevating the voices of care experienced people, we utilise this legislation to frame the need for corporate parents to create concrete action to make positive change. During the past four years of discussion on the link between care and criminalisation, Police Scotland and Disclosure Scotland are the two key corporate parents who we have worked closely with to encourage change. However, ending the criminalisation of care experienced people is a responsibility of all of Scotland's corporate parents and they must be informed of their duties and offered guidance in how they, within their varying roles, can support the strategy.

Our research tells us that fundamental to Police Scotland fulfilling their corporate parenting duties, is the rebuilding and strengthening of their relationships with care experienced people. For example, in our Children and Young People Act 2014 research, it was the first time we asked young people about their views on corporate parents. When reflecting on experiences with police, this is some of what they had to say:

- *“Police were only involved when there was trouble, not always with us but were called all the time by the extended family.”*
- *“Saw a lot of the Police but they never seemed to do anything.”*

Four years later, we are still hearing the same comments from young people and will continue to utilise corporate parenting duties as a call for action.

Rights and Wellbeing Context

WCS also draws on various international rights and Scottish wellbeing frameworks to evidence why the criminalisation of care experienced people is an urgent issue which must be addressed by Scottish government. Duties in relation to the UN Convention on the Rights of the Child (UNCRC) are placed on Scottish Government and public bodies under Part 1 of the Children and Young People (Scotland) Act 2014. The UNCRC is also the foundation of the Scottish Government's approach 'Getting it Right for Every Child' (GIRFEC) which aims to support children, young people, and their parents to work with the services that can help them and, importantly, centres child wellbeing at its heart. By framing the criminal justice system as way to improve and uphold child wellbeing, we can work to change the culture and practice of professionals working with children and young people in this area.

The concept of wellbeing defined in GIRFEC is understood through the SHANARRI indicators and each of these indicators also directly relates to different articles of the UNCRC.⁸ Therefore, we understand impact on a child's wellbeing in relation to impact on rights.

⁸ Corporate Parents are defined in law by Part 9 of the Children and Young People (Scotland) Act 2014: <http://www.legislation.gov.uk/asp/2014/8/part/9/enacted>

A Summary of Views: Care Experience and Police Involvement

Early Experiences

Many care experienced children and young people tell us that their main interactions with the police occur from stop and searches, being found after going missing and police visits to where they live, for example children's homes. However, young people also told us that they usually first meet the police under negative circumstances and that this first impression has the potential to taint all further contact.

Many care experienced young people will have memories of police being involved in their lives at the time of being taken into care. These young people may also have witnessed their parents and families being subject to police force and they may have been made to feel anxious of police by family members or other young people around them:

- *"The police are associated with hard times"*
- *"See police when things are chaotic"*
- *"Triggers to emotional past"*

During their turbulent and often traumatic childhoods they may have had several negative experiences with the police, from hearing family members talking critically about the police, to witnessing a parent being arrested. When we asked young people how they felt about the police, their responses were varied, but a pattern of distrust emerged among the more negative associations. It is also important to note that some young people feel uneasy around the police, often due to past experiences as mentioned above. This might impact upon their behaviour, with some telling us that they may present as hyper vigilant in an officer's presence or demonstrate behaviours that could be misinterpreted as suspicious.

Running Away

A common reason that leads to increased police involvement with care experienced young people is when they run away from their placement:

One young person we spoke to explained how it felt to be so easily identified by the police. She noted that while living in care, she would regularly run away to meet friends or stay with family members. Each time she would be reported missing by her carers and the police would find her and return her home. Over time this meant that she became very well known to the local police officers, who would stop her anytime they met her in the street and search her. She spoke about how embarrassing she found this and how it made her feel like she was different from everyone else.

Another consequence of this is that care experienced young people are three times more likely to go missing than their non-care experienced peers.⁹ More up-to-date research needs to be conducted into the why care experienced young people go missing and what measures could be put in place to prevent this from happening:

"The first time I ran away was from my family home due to neglect, I was overwhelmed with the responsibility of looking after my younger siblings... After a year in a foster placement I was asked to leave and was left feeling rejected and really let down by the care system that I had once ran to for help. I was then moved into residential care where I met other young people who frequently ran away. I was

⁹ Rees, G. and Lee, J. (2005), *Still Running II, Findings from the Second National Survey of Runaways*.

soon running with them. There were many reasons why we ran; I ran away from school because I faced bullying daily because I was labelled as “mental” because I was in care, I ran away from residential care because I didn’t feel “normal” and felt controlled by the care system. I also ran away home to my Mum’s house on a regular basis because I longed to be back home with my family and where I felt I should belong even though my Mum was unable to cope.”

Young people who abscond from children’s homes are more likely to be known to police so even if they have not absconded they will more than likely be stopped by police, regardless of who they are with or where they are. For example, being stopped in public with friends so the police can check they are not missing, causing the young person to feel embarrassed, anxious and criminalised.

Professionals Working with Children and Young People

From our work, we know that the relationships between professionals and young people are very important, and good relationships can make a significant difference. The Westminster All- Party Parliamentary Group’s inquiry into children missing from care found that abuse is exacerbated by an attitude among some professionals that these children are ‘troublesome’, ‘promiscuous’ or ‘criminals, who knew what they were getting themselves into’ – rather than extremely vulnerable young people in need of support.¹⁰

When a young person lacks positive relationships, it means that signs of abuse or exploitation can go undetected – leaving children unprotected and more likely to engage with risky behaviours. One young person reflected on their experiences of running away:

“Although the majority of care staff were nurturing and caring they would always become very professional and cold on my return. I was made to feel like I did something wrong, and various measures were put in place to modify my behaviour; from cognitive behavioural therapy, to being grounded, social workers being called, crisis meetings held. The more controlling measures that were placed on me I felt more and more out of control and angry, my behaviour escalated to the point where I was placing myself at serious risk. This led to me being locked up in a secure unit.”

The response of some staff/carers towards young people that run away can therefore have an unintended detrimental effect.

As mentioned, running away often leads to early and frequent involvement with the police, meaning a young person feels targeted and might be viewed as being involved in criminal behaviour. The involvement of the police with a child or young person who goes missing from care may be necessary in locating them, yet involvement with the child or young person with the police after the event, unless to assist with a case, can be disruptive.

General Use of Police in Care Settings

There are also broader reasons why care experienced young people are more likely to encounter the police than their non-care experienced counterparts, rooted in the lived experience of care. This links strongly with the ongoing project by the Howard League on understanding criminalisation of children and young people in residential placements.

¹⁰ APPG (2012), *APPG Inquiry into children missing from care*.

Police involvement can sometimes be overly relied upon by those caring for young people, particularly in residential placements. We know anecdotally of young people having charges brought against them, for actions that may be ordinarily dealt with by parents in the family home and not by the police. One young person commented:

“The police do get phoned when you are in a unit. Like if you were at home they wouldn’t phone the police.”

“The staff in my home called the police in for nothing and when I’m out with my pals the police stop me just because they know me.”

We know that a ‘looked after’ status often contributes not only to the police being called for anti-social rather than offending behaviour reasons, but also to young people being charged by the police.

Young people have told us examples such as:

- A young person charged with assault for ping-pong a boiled carrot at staff member with a spoon.¹¹
- A young person charged with criminal damage for smashing a plate.

We have also been told numerous times that young people feel physical restraint by police is sometimes used as a punishment rather than a last resort:

“Police came in and restrained me, put white things on my wrists and then they put something on my mouth, so I couldn’t spit on them. If they got off me for 2 minutes I would explain why I was kicking off. They got the wrong person, the police wanted to charge me, I was greeting and crying.”

Young people that live in residential care can seem to face more involvement with the police than young people in different types of placement, however more research must be conducted to understand this issue further. Young people we have spoken to have told us that they think staff in residential care are more likely to involve police in incidents that would not be considered as ‘criminal’ in the family home:

- *“Force by police is used in a residential setting to ‘calm’ things down. They apply same force to all young people regardless of needs and circumstances.”*
- *“Young people in residential units are being ‘controlled’ by police coming out when staff can’t cope – this shouldn’t happen!”*

Young people have also told us that staff will use the police as a threat to encourage certain behaviour:

“Staff working on night shift are quick to call police and this resulted in young people receiving charges. There is less staff on a night shift, so they feel more vulnerable. Night-time is a really vulnerable time for a young person when charged, they can’t contact legal representation or get hold of advocates.”

¹¹ This story is available in more detail, as a video case study used for Corporate Parenting training, ‘Dionne’s Case Study’ can be found here: <http://www.corporateparenting.org.uk/learning-hub/case-studies/dionne-policing/>;

Similarly, other young people have told us that they feel threats were used against young people in care by certain staff to “*get you charged*”. In addition to this, when police became involved, they felt they would only listen to the staff or adult perspective.

Challenging Behaviour Criminalised

The inappropriate criminalisation of care experienced children and young people can also be due to challenging behavioural needs not being met. This issue has been recognised in various pieces of research, one example is Clifford Williams’ study of the increase of young people holding criminal records in the constabulary of Hampshire.¹² He suggests that the police’s inflexibility surrounding the use of criminal justice sanctions, against what the public may deem minor offences, encourages criminalisation of behaviour that could be dealt with in a less punitive manner. This will be covered further in the section on pathways for change.

Young people tell us that challenging behaviour is sometimes the only way they can demonstrate how they feel. However, using harmful behaviour as a form of expression is not always recognised:

- *“People noticed my behaviour, but not my trauma.”*
- *“I turned getting into trouble as a way of communicating, like asking for help.”*

The second quote shows how a young person reflected upon the difficulties they had verbally communicating the problems they were facing. Therefore, it is vital to address harmful behaviour, as being a sign of unmet wellbeing needs. It is important the individual can realise and accept support to meet these needs and not be punished for their behaviour, ensuring that they are not criminalised or labelled. The impact that successful intervention and support can have is high for children and young people. It is therefore imperative that any action to address certain behaviours in care placements are decided based on evidence and the views of young people themselves.

Children and young people who have demonstrated harmful behaviour can provide powerful insights into what it feels like to be in their position:

“I’m not a bad person, but I get classed as a criminal. I’ve just got issues that make me do things, like having no family. And drinking makes things come to the surface.”

In addition to this, consideration should be given to the effects of the traumatic backgrounds that many young people experienced before they were taken into care. The long-term effects of trauma cannot be ignored and can affect all areas of a child or young person’s development, from learning and communication, to their ability to form appropriate, trusting and meaningful relationships.

Stigma, Discrimination and Targeted Policing

Discrimination against care experienced people takes many forms and as discussed, care experienced people face specific circumstances that lead to higher rates of criminal convictions at a young age. The increased exposure children and young people in care have with police, creates lasting effects on their lives and has cultural consequences. From speaking to young people who have experience of being in care, we know that often they

¹² Williams, C. (2011), The Growth and Permanency of Criminal Records with Particular Reference to Juveniles. *The Police Journal* (84), pp.171-182.

feel they are targeted by police officers due to simply being known through the care system. Many tell us that they do not have a good relationship with the police, and often feel that they are judged negatively due to their care experienced status. This is the result of indirect discrimination which is being allowed to perpetuate in certain police practices, such as over-involvement of care experienced people in stop and search.¹³

“Police are automatically stopping and searching because young people are in care, with no reason.”

Certain practices, such as stop and search, can be distressing and have potential to be harmful to the young person’s wellbeing, sense of self and personal development. Young people in care describe being regularly asked to comply with a stop and search. For some young people this is even daily:

“Every day they [the police] would search me.”

The feeling of being stigmatised in this way can be a constant reminder that they are not perceived by some to be the same as their contemporaries and that some adults see them as stereotypes rather than individuals.

“They just stop you because they know where you’re from.”

Mistrust in Police

The stereotyping and discrimination of care experienced people can cause them to feel negatively towards the police. A mistrust in police is further encouraged by popular opinion and solidified by potentially negative early childhood experiences, discussed earlier.

“I will stay as far away as I can from the police for the rest of my life.”

At the other end of the scale, when young people describe positive police interactions they often cite the reason for the positivity to be a kind and understanding officer, who has taken the time to build a relationship with them, or simply positively interacted with them.

However, negative police engagement throughout a young person’s life has the potential to distort an individual’s understanding of the role of the police. Many describe feeling that the police are not on their side and that even after little engagement with the police after leaving care they still feel unable to trust the police. However, it is vital to recognise that when young people leave care, they are often very vulnerable, and it is important that they feel able to go to the police if they do not feel safe. Many young people have stated during focus groups that they would not contact the police for help in the future and would be unwilling to cooperate with the police in any way:

“The police have done fuck all for me. I wouldn’t phone them.”

Dignity, Respect and Privacy: Police Investigatory Powers

Care experienced young people have told us that they often feel whilst engaging with the police they are not offered adequate protection of their dignity and privacy whilst being subject to a stop and search, or whilst engaging with the police generally. We know that often, when the feeling of shame or embarrassment is evoked, at times this can lead to the young person displaying more extreme behaviour. This is another way in which their

¹³ For more information on this issue, please see relevant materials on our online Corporate Parenting Learning Hub at: <http://www.corporateparenting.org.uk/learning-hub/>

behaviours become criminalised. For example, one young person we spoke to stated that this feeling of embarrassment around being stopped and searched, led her to react in a defiant manner. This then led to a struggle with the police and charges of Breach of the Peace and Resisting Arrest often being held against her.

Convictions and Formal Processes

The Children's Hearing System (CHS)

The Children's Hearing System is Scotland's unique care and justice system for children and young people. It aims to ensure the safety and wellbeing of vulnerable children and young people through a decision making lay tribunal called the Children's Panel.¹⁴

It is possible for children and young people can be referred to the Children's Reporter if showing harmful behaviours. This may then lead to a Children's Panel being called for that individual, to discuss these behaviours, which can potentially lead to that child or young people receiving criminal convictions.

The CHS assumes that there are 'similarities in the underlying situation' of young people who demonstrate harmful behaviour and that those in need of care and protection 'far outweigh the differences'.¹⁵ As a consequence, even when used to address challenging behaviours, Children's Hearings should never focus exclusively on the child's harmful behaviour but should address wider questions of the child's welfare in a holistic and non-criminalising way.

WCS believes that children and young people should be helped to understand the Children's Hearing System and should always be offered independent advocacy in advance. Young people need to be supported to understand the process, the decisions and their own rights and this seems even more important in the case of receiving potential convictions.

A potential outcome of a hearing being called is that a young person can be accommodated in secure units, should they meet the specific criteria. There has been concern from young people who have been secured after attending a Children's Panel, that they did not feel the Hearing System clearly explained the decisions made about them. Many of these young people also expressed opinions that being in secure was a form of punishment, the equivalent of prison. They revealed their anxieties surrounding the uncertainty of their length of stay:

"With the Hearing system you don't know how long you'll get. It's 3 months, and then maybe another 3 months, but in court you'll get a time."

For some young people the means that are selected to protect them can instead lead to them becoming institutionalised and criminalised. Young people have articulated a need for transparency surrounding their care and for their opinions to always be carefully considered.

It is also very unclear whether children and young people have an understanding that convictions received at a Children's Hearing can have long-term consequences, such as appearing on a PVG check. It is important for the Howard League to understand that there is

¹⁴ See the Children's Hearings System Scotland website for more information at:

<http://www.chscotland.gov.uk/the-childrens-hearings-system/>

¹⁵ SHHD (1964), *Children and Young Persons (Scotland)*.

potential for Scotland's CHS to unintentionally increase the criminalisation of children and young people, in a way which is not in line with the system's collaborative, child-centred ethos.

Disclosure and Criminal Records

The Howard League's project on residential care links to the fact we know that sometimes a young person's journey towards the criminal justice system starts and/or escalates in residential care. We have regularly cited Howard League research, especially the report which shows in England and Wales, care experienced teenagers are nearly 20 times more likely to be criminalised than their non-care experienced counterparts.¹⁶

"When you are younger you think it's just fun and games. You don't actually think it through. Then there is one year of your life when you open your eyes and see that you have to take responsibility."

We also know that as a result, the disclosure process in Scotland which exposes criminal convictions, specifically affects and adds to the poor outcomes of care experienced children and young people.¹⁷ Again, we agree with CYCJ, that the evidence shows conviction disclosure is inherently anxiety-provoking for individuals with convictions.¹⁸ Care experienced people with criminal convictions are therefore forced to deal with the stigma of being labelled as criminals, along with the stigma they already face due to their care identity.

As well as a source of anxiety, criminal records received in childhood strongly impact an individual's access to opportunities for employment, education, housing and other public services and serve to further disadvantage care experienced people. There is strong evidence of the destructive effect of childhood criminal records on the rest of an individual's life.¹⁹ We know from the young people we work with, that a criminal history can often prevent care experienced children from moving on from their past and making the most of their potential. This is another consequence of criminalisation which has long-lasting effects on care experienced lives.

Pathways to Change

Throughout our work with care experienced people, we have had many suggestions of the positive changes they would like to see. In our research, we always encourage those who participate to tell us how they would like to see positive change happen.

Alternative Methods

A key theme which appears in conversations with care experienced people on criminalisation is whether the methods currently used by the criminal justice system to deal with harmful behaviours works to achieve a positive outcome for the individual. Many conversations centre on the feeling that police action and gaining criminal convictions, does

¹⁶ The Howard League (2016), *Criminal Care*.

¹⁷ House of Commons Justice Committee (2017), *Disclosure of youth criminal records, First Report of Session 2017–19HC 416*.

¹⁸ CYCJ (2017), *Response to Consultation on the Proposed Draft Police Act*.

¹⁹ *Independent Parliamentarians' Inquiry into the Operation and Effectiveness of the Youth Court*, chaired by Lord Carlile of Berriew CBE QC. June 2014 quoted in House of Commons Justice Committee (October 2017), *Disclosure of youth criminal records, First Report of Session 2017–19HC 416*.

not aim to make the individual's life better, but instead is there solely to punish. There is strong feeling through our research, that young people should be perceived as in need of help and support if displaying criminal behaviours. Currently, the measures in place make many care experienced children and young people more likely to have poorer life outcomes:

“They should take into consideration how jailing you and charging you makes you lose your income and before you know it you're homeless. Young people don't have to be criminalised and have a record, can make sure they get some punishment but not a criminal record – maybe something like a behavioural course.”

It is traditionally assumed that in Scotland a young person's welfare is prioritised when they come into contact with the justice system, based on the philosophy of justice advocated by the Report of the Kilbrandon Committee.²⁰ This recognises the special status of children and that their 'involvement in crime is linked with 'social problems' which are symbolic of deeper social and psychological difficulties, rather than from free, rational and informed choice.'²¹

We know that some of the reasons care experienced children become looked after includes loss, neglect, abuse and parental alcohol or substance misuse which are all extremely traumatic. Without the strong attachments that are so vital in early life many young people are often unable to develop confidence in themselves and others. For this welfare approach to work and reduce the connection of Scotland's care experienced young people with the justice system it must be child-centred, needs-focused and non-criminalising, all of which are founded in rights-based policy making.

We know that most children who harm, have been harmed themselves; the link between trauma and behaviour is well acknowledged.²² WCS believes that to protect children and young people who are vulnerable to harmful behaviour, there needs to be early intervention and support from a multi-agency approach. All efforts need to be made to avoid criminalising the young person.

It must also be acknowledged that any involvement with the police is immediately going to have a traumatic effect on the child no matter how many safeguards are in place:

- *“The cells are never safe”*
- *“I was in the cells when I was 9 there was all junkies shouting, I didn't even know what they were saying. I was greeting”*
- *“No, they shouldn't be put in a cell, with all that noise like drunk people shouting”*
- *“Imagine if someone treats their kid like that”*

The young people we have spoken to clearly feel that police cells are not a safe place, especially for children and young people. They also tell us that police frequently treat young people who have acted in a harmful way like criminals and do not always try to understand the circumstances behind the behaviour:

²⁰ SHHD (1964), *Children and Young Persons (Scotland)*.

²¹ Muncie, J. (2004), *Youth and Crime*.

²² Scottish Government (2016), *The Report of the Advisory Group on the Minimum Age of Criminal Responsibility*, available online at: https://consult.scotland.gov.uk/youth-justice/minimum-age-of-criminal-responsibility/supporting_documents/00497071.pdf

- *“They say if you’re old enough to do all that I can speak to you like that”*
- *“They treat you like you’re 18, but you’re not”*
- *“When I got lifted the policeman grabbed me and slammed me into the ground”*
- *“They always put handcuffs on really tight to antagonise people. They ask if you have any marks on you, but you don’t get any medical help”*

This links strongly with why the care experienced people we have spoken to tell us they have a high level of mistrust in police practice. There is a perception that some police do not care about them and do not treat them with respect or dignity, when often they are dealing with an extremely vulnerable individual:

“Polis don’t see you as a human being at the end of the day. The minute you go to the station, you’re just scum in their eyes.”

Additionally, any action by police, such as a stop and search, which is carried out through a concern for a person’s health and wellbeing must be followed by referral to other relevant specialist services. For example, a young person who is searched and is found to have a small blade used as a self-harm implement must be referred to any current supports in place. It is these kinds of actions which lead to police being able to support vulnerable children and young people to get the help they need, rather than criminalise them.

Rehabilitation Process

It is both impossible and unhelpful to erase someone’s past identity from their current one. Understanding the links between the individual’s care experience and their offending behaviour should be part of any rehabilitation process. Young people tell us that trusted relationships are the most important thing to them, especially in times of crisis, and the police have the power to deliver this. We know that without supportive and stable relationships, it can be difficult for young people to break away from a long-term offending career path.

“I think they should be doing more, even at 16 you shouldn’t go to jail, should be moved at 18. Other steps should be taken. Things like community service and the tag, tag is the best way and you’re still getting to be at home with your family. The tag does work. Young people should be given the chance of a tag before going straight to jail, they’ve then been given another chance.”

A needs-focused response is required to deal with harmful behaviour of young people. The state has a legal and moral responsibility to be a good parent (corporate parent) and to reflect this, rehabilitation must be child-centred, needs-focused and non-criminalising.

Building Relationships

Another key change care experienced people tell us needs to take place, is building positive relationships with police:

“My experiences with the police as a young person were mainly very negative, particularly within one local authority where I was labelled as a “trouble maker”, and I was often told that “police have better things to do with their time” than run after me. I did however meet some really skilled and experienced police officers that took the time to listen to me, and did not judge me. I believe that good training and an

understanding care experience is crucial to the work of the police, and that they could build far more positive relationships with young people.”

Police within communities should get to know the care experienced young people in their areas, in a non-stigmatising way. Care experienced young people tell us they do not want the police to give up on them. Just because they have done something to come to the attention of the police does not mean they are destined to fail.

Unfortunately, young people have told us that their family links can affect how the police view them. We must work to ensure that young people leaving care feel they can ask for help from the police when they need it and so they have a duty to make sure that they build positive relationships with young people with care experience.

For example, several local authorities throughout Scotland have made attempts to improve the connection between young people and the local police officers. This can include arranging regular police visits to children’s units on a casual basis to build relationships and provide support to young people. This method of relationship building can be extremely effective and can repair the mistrust and lack of understanding that can exist between police and those in care.

Also, some other specific actions suggested have been:

- Police should be available to support care experienced young people
- Police should be seen in non-threatening circumstances, such as schools etc.
- Better communication between police and young people and positive use of community police
- Police building relationships with care experienced people at earliest possible stage in communities – not just engaging once in crisis

Care experienced children and young people have recognised that police relationships with them need to be improved and that this would best happen through positive engagement. Police treatment currently makes them feel different or separate from their non-care experienced counterparts. It is the duty of all corporate parents to ensure that they actively reduce this feeling of isolation from the rest of society.

Creating Understanding and Cultural Change

To create better police relationships and encourage alternative methods of policing harmful or challenging behaviours shown by care experienced people, there must be cultural change based on a real understanding of what care is and the effects it has on people’s lives.

Some specific steps suggested are to:

- Develop police understanding of life in and after care
- Involve care experienced young people in delivering the training
- Listen to the views and experiences of young people
- Remove wider judgment and stigma attached to care experienced children in communities and Scottish society
- Reduce inappropriate criminalisation of young people more generally

This change in culture must also improve how young people view police, as well as encouraging police to view young people in care differently. They must be encouraged to support them, to understand what care journeys can look like and to collaborate effectively with other corporate parents and carers in the lives of these young people.

Young people have told us that they think further training is also needed for professionals working with children who display harmful behaviours. This should aim to contextualise the behaviours that some children may display and lead to situations being dealt with, without police involvement. This is an opportunity to raise awareness of how few children really behave in seriously harmful ways and educate the public.

Upholding Rights

Care experienced people are particularly vulnerable to an abuse of power that neglects their rights for a number of reasons.²³ Enhancing relationships with police officers would also enable care experienced young people to become better informed of their rights, and also increase their confidence in the processes and procedures officers must adhere to.

Our advocacy experience also informs us that care experienced young people can be unaware that they have certain rights, such as withholding permission to being searched.

- *“If I am asked by the police if I understand my rights, I will just say yes, as I don’t really understand. More should be done to ensure young people understand and know their rights.”*
- *“Police need to take caution in how they speak to young people, can’t assume young person knows rights...”*

Specific actions suggested are:

- To create transparency, which needs to be achieved through making young people aware of their rights
- *“Maybe they could hand you a ‘your rights’ card with what is being said on it, to ensure the police are telling you your rights and you have something to take away with you.”*

It is imperative to prioritise the voice of care experienced people and ensure that they understand the situation and their rights fully when interacting with the criminal justice system.

If you wish to discuss this work further, please get in touch:

**Lynzy Hanvidge, Policy Ambassador: lhavidge@whocaresscotland.org
Lucy Hughes, Policy Officer: lhughes@whocaresscotland.org**

²³ WCS (2018), *Equalities and Human Rights Committee Inquiry: Human Rights and the Scottish Parliament*, available online at: <https://www.whocaresscotland.org/wp-content/uploads/2018/03/WCS-Response-to-Equalities-and-Human-Rights-Committee-Inquiry.pdf>