Alternatives to Custody

Developing specialist fostering for children in conflict with the law

The Alternatives to Custody Project – Europe
Alternatives to Custody
Developing specialist fostering for children in conflict with the law

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Jacqui Lawrence, British Association for Adoption & Fostering
Roana Roach, British Association for Adoption & Fostering
John Page, Royal Borough of Kensington and Chelsea, London
Maxine Wrigley, A National Voice
Rosi Hunter, A National Voice
Imraan Patel, A National Voice
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Jeffrey Coleman
Project Director, Alternatives to Custody Project
March 2015
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INTRODUCTION TO THE ALTERNATIVES TO CUSTODY PROJECT

Jeffrey Coleman

The background

This book is one of the main outcomes of a two-year pan-European project entitled “Alternatives to Custody for Young Offenders: Developing intensive and remand fostering programmes”. It has been funded by the European Commission’s Daphne III programme, with the British Association for Adoption and Fostering (hereafter BAAF) as co-ordinators and applicants.

The project has been driven by the ambition to test out, at a European level, a number of perceptions and beliefs that, in combination, formed our starting point:

- that foster care, when it can be delivered to high quality standards by committed carers with empathy for the young person, and with the training, supervision and support they need,\(^1\) can significantly benefit, and sometimes transform, the life chances of the large and vulnerable group of children in conflict with the law in Europe who find themselves at risk of institutional placement or imprisonment;
- that the development of a positive relationship,\(^2\) and the quality and strength of that relationship, between a carer and a young person, and also between youth justice or social work professionals and a young person, can be central to the process of change for these young people;
- that adolescents have all the difficult challenges of being in transition, which could be better overcome by social and educational support instead of punishment;
- that involvement in youth crime is of an episodic nature, which normally gives way to integration into family and occupational life in early adulthood provided that the necessary opportunities and support can be made available (Dünkel, 2012);
- that the provision of foster care for children in conflict with the law has the additional merit of bringing together two institutional realms – child welfare and youth justice – that too often have been allowed to bifurcate to the detriment of joined-up approaches to meeting the needs of these very vulnerable children;
- that decisions about children who have infringed the law should primarily reflect their status as children, and focus on their best interests and longer-term development, rather than their offending behaviour (National Association for Youth Justice, 2015).

The availability of funding from the European Commission, under its Daphne III programme, promoting the goals of child-friendly justice,\(^3\) gave us precisely this opportunity to test out these perceptions in collaboration with a team of international partners who shared this interest in whether we could establish a case for an enhanced role for a foster care service fully compliant with the standards demanded by child-friendly justice in European youth justice systems.

The approach we took was to undertake an exploration of relevant practice and research,

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\(^2\) [www.google.co.uk/?gfe_rd=cr&amp;ei=gtDbVOaGB_Oq8weS84CACQ&amp;gws_rd=ssl#q=NAYJ+who+works+rather+than+what+works+ali+wigzell](http://www.google.co.uk/?gfe_rd=cr&amp;ei=gtDbVOaGB_Oq8weS84CACQ&amp;gws_rd=ssl#q=NAYJ+who+works+rather+than+what+works+ali+wigzell)

\(^3\) See [www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp](http://www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp) for the Council of Europe’s child-friendly justice materials, including the text of the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (*Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies*)
Alternatives to custody

including qualitative research in our four partner countries (Bulgaria, Hungary, England, Italy), from which to develop a good practice model for the use of intensive and remand fostering programmes as alternatives to custody for young people in conflict with the law. To fulfil our aim we have had to draw on a range of material and expertise from the professional worlds of both foster care and of youth justice, and pull together these two spheres of knowledge in framing our conclusions. Our partners in Bulgaria, Hungary, Italy, as well as BAAF in England, have each provided chapters in this book, translating the project’s findings into the practical language of policy to explore the role that specialist fostering might play in their country's youth justice system.

This book then sets out the “protocol of intervention” that forms the conclusion of our project.

The international context

The project’s context is defined by the international and regional instruments that set the standards for youth justice, most importantly the 1989 UN Convention on the Rights of the Child, a binding international treaty that all European states have ratified. It makes clear that the principal aim of youth justice should be to act in the “best interests of the child” – “child” defined as any person under the age of 18 – and to provide education, support and integration into society for all children ‘alleged as, accused of, or recognised as having infringed the penal law’ (UN, 1989; Dünkel and Pruin, 2012). These ideas are developed in subsequent European instruments (see Chapter 2).

Furthermore, the European Rules for Juvenile Offenders Subject to Sanctions and Measures make clear that the imposition of custody should be a last resort for juveniles in conflict with the law, and only imposed for the shortest period possible. Special efforts must also be undertaken to avoid pre-trial detention. As Dünkel and Pavin (2012) say, ‘Everywhere it is proclaimed that deprivation of liberty should be a measure of last resort. In practice the level of what is meant by “last resort” varies across time and in cross-national comparison.’

These rules and requirements of the UNCRC and other instruments are in place for good reason. The evidence is irrefutable that custody for juveniles in conflict with the law can, at worst, be profoundly dehumanising, a criminogenic environment that pays short shrift to children’s UNCRC rights, while, at best, it fails to address the developmental needs of the young people housed in these institutions of detention, exacerbating their problems and damaging their life chances. For example, a recent study shows that violence in institutions for juvenile offenders is prevalent, with half of the 37 European Member States respondents indicating that they consider violence in institutions to be of “serious” or “very serious” concern (Liefaard, 2014).

The UNCRC cannot of itself guarantee child-friendly youth justice regimes. As Goldson and Muncie (2012) comment, ‘The UNCRC is ultimately permissive and breach attracts no formal sanction. In this sense, it may be the most ratified of all international human rights instruments but it also appears to be the most violated, particularly with regard to juvenile justice …’
The use of custody in European youth justice

There are many variations, with regard to age limits, other legal preconditions and the duration of institutional placements, in the types of institutions in which juveniles can find themselves when deprived of their liberty. However, in all countries, young people under 18 who have committed an offence can be convicted and sentenced to (youth) imprisonment, which they serve in adult prisons, or in separate juvenile institutions, or in welfare institutions. Both the minimum age at which a young person can be imprisoned in Europe and the duration of custody vary considerably.

Examples of youth imprisonment regimes

- Portugal: for 12–16-year-old juveniles: maximum 3 years
- Sweden: for 15–18-year-old juveniles: maximum 4 years
- England: maximum youth prison sentence: 2 years
- Netherlands: maximum 2, exceptionally 7 years
- Germany, Greece: maximum 5, exceptionally 10 years

Age structure of inmates in youth prisons

Examples:

- Austria: 14–27
- England and Wales: 10/12/15–18/21
- France: 13–18/23
- Germany: 14–25
- Greece: 15–25
- Netherlands: 12–23
- No youth prisons in Sweden (instead, secure youth care)

Trends in the use of custody

In countries where there was a rise in the youth prison population during the 1990s and early 2000s (e.g. England and Wales, France, Netherlands), the numbers have decreased significantly in recent years. There has also been a recent decrease in most central and eastern European countries, with the onset of lower levels of custodial sanctions and higher levels of community sanctions and measures.

However, Table 1.1, based on the most recent published data, illustrates the persistence of child imprisonment as a component of most European prison populations.

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This and the ensuing comparative data on custodial regimes in European youth justice were provided by the IJJO presentation ‘Trends in European Juvenile Justice and the Role of Foster Care’, by A. Parosanu and colleagues at the project’s final conference on 2 Dec 2014 in Brussels.
### Alternatives to custody

**Table 1.1**  
Proportion of juveniles in each European country’s prison populations by percentage

<table>
<thead>
<tr>
<th>Country</th>
<th>Juveniles/minors/young prisoners including definition – percentage of prison population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Faroe Islands (Denmark)</td>
<td>NO DATA</td>
</tr>
<tr>
<td>Andorra</td>
<td>0.0%  September 2013 – under 18</td>
</tr>
<tr>
<td>Gibraltar (United Kingdom)</td>
<td>0.0%  27.11.2009 – under 18</td>
</tr>
<tr>
<td>Guernsey (United Kingdom)</td>
<td>0.0%  24.10.2014 – under 18</td>
</tr>
<tr>
<td>Isle of Man (United Kingdom)</td>
<td>0.0%  9.11.2014 – under 18</td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>0.0%  31.12.2012 – Under 18</td>
</tr>
<tr>
<td>San Marino</td>
<td>0.0%  1.9.2012 – under 18</td>
</tr>
<tr>
<td>Spain</td>
<td>0.0%  November 2014 – under 18; 1.1% under 21</td>
</tr>
<tr>
<td>United Kingdom: Northern Ireland</td>
<td>0.0%  30.9.2013 – under 18</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>0.1%  of sentenced prisoners, 1.9.2012 – under 18</td>
</tr>
<tr>
<td>Norway</td>
<td>0.1%  1.9.2013 – under 18</td>
</tr>
<tr>
<td>Albania</td>
<td>0.2%  September 2014 – under 18</td>
</tr>
<tr>
<td>Bosnia and Herzegovina Federation</td>
<td>0.2%  1.9.2012 – under 18 at date of sentence</td>
</tr>
<tr>
<td>Denmark</td>
<td>0.2%  1.9.2013 – under 18</td>
</tr>
<tr>
<td>Sweden</td>
<td>0.2%  1.10.2013 – under 18</td>
</tr>
<tr>
<td>Finland</td>
<td>0.3%  average, 2013 – under 18</td>
</tr>
<tr>
<td>Montenegro</td>
<td>0.3%  September 2013 – juveniles</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>0.3%  of convicted prisoners, 1.1.2014 – under 18</td>
</tr>
<tr>
<td>Ireland, Republic of</td>
<td>0.4%  of sentenced prisoners, 31.12.2014 – under 18</td>
</tr>
<tr>
<td>Moldova, Republic of</td>
<td>0.4%  of sentenced prisoners, 1.7.2014 – under 18</td>
</tr>
<tr>
<td>Poland</td>
<td>0.4%  30.9.2013 – under 18</td>
</tr>
<tr>
<td>Switzerland</td>
<td>0.4%  4.9.2013 – under 18</td>
</tr>
<tr>
<td>Armenia</td>
<td>0.5%  1.1.2013 – under 18</td>
</tr>
<tr>
<td>Portugal</td>
<td>0.5%  15.10.2013 – under 18</td>
</tr>
<tr>
<td>Cyprus, Republic of</td>
<td>0.6%  of those held in the prison, 1.9.2012 – under 18</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>0.6%  31.12.2014 – juveniles</td>
</tr>
<tr>
<td>Country</td>
<td>Juveniles/minors/young prisoners including definition – percentage of prison population</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Iceland</td>
<td>0.6%</td>
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<td>Italy</td>
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<tr>
<td>Slovakia</td>
<td>0.6%</td>
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<tr>
<td>Slovenia</td>
<td>0.6%</td>
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<tr>
<td>Ukraine</td>
<td>0.6%</td>
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<tr>
<td>Belarus</td>
<td>0.7%</td>
</tr>
<tr>
<td>Belgium</td>
<td>0.7%</td>
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<tr>
<td>Luxembourg</td>
<td>0.7%</td>
</tr>
<tr>
<td>Serbia</td>
<td>0.7%</td>
</tr>
<tr>
<td>United Kingdom: Scotland</td>
<td>0.7%</td>
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<tr>
<td>Bulgaria</td>
<td>0.8%</td>
</tr>
<tr>
<td>Georgia</td>
<td>0.8%</td>
</tr>
<tr>
<td>Macedonia (former Yugoslav Republic of)</td>
<td>0.8%</td>
</tr>
<tr>
<td>United Kingdom: England &amp; Wales</td>
<td>0.9%</td>
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<tr>
<td>Lithuania</td>
<td>1.0%</td>
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<tr>
<td>Estonia</td>
<td>1.1%</td>
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<td></td>
<td></td>
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<tr>
<td>Latvia</td>
<td>1.1%</td>
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<tr>
<td>Malta</td>
<td>1.1%</td>
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<tr>
<td>Romania</td>
<td>1.1%</td>
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<tr>
<td>Croatia</td>
<td>1.2%</td>
</tr>
<tr>
<td>France</td>
<td>1.2%</td>
</tr>
<tr>
<td>Turkey</td>
<td>1.2%</td>
</tr>
<tr>
<td>Jersey (United Kingdom)</td>
<td>1.5%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>1.5%</td>
</tr>
<tr>
<td>Austria</td>
<td>1.6%</td>
</tr>
</tbody>
</table>
Alternatives to custody

Diversion and restorative justice

The majority of countries provide informal ways of dealing with youth offending (except for the more serious offences) through diversionary measures (Belgium 80%, Germany 70%) and by giving priority to alternative sanctions over deprivation of liberty. Increasingly, restorative justice measures (such as mediation, conferencing, reparation schemes) have also gained in importance.

The role of foster care in youth justice

A recent comprehensive meta-analysis (Lipsey et al, 2010) of the effects of intervention programmes for young offenders discerned two contrasting philosophies characterising interventions:

- the first featured external control techniques for suppressing delinquency and included programmes oriented toward instilling discipline (such as paramilitary regimens in boot camps), programmes aimed at deterrence through fear of the consequences of bad behaviour, and programmes emphasising surveillance to detect bad behaviour (such as intensive probation or parole supervision);
- the second, and contrasting philosophy, however, involved attempts to bring about behaviour change by facilitating personal development through improved skills, relationships, insight and understanding. This therapeutic philosophy included restorative measures (such as restitution, victim–offender mediation), skill building (for example, cognitive-behavioural techniques, social skills, academic and vocational skill building), counselling (individual, group and/or family counselling; mentoring), and multiple co-ordinated services (such as case management and service brokering).
When the mean effects on re-offending rates were compared for the programmes associated with these two broad approaches, those with a therapeutic philosophy were notably more effective than those with a control philosophy.

The ethos of specialised foster care for children and young people in conflict with the law is an illustration of the therapeutically-oriented philosophy that Lipsey's research found to be associated with better outcomes, and of how social welfare systems and juvenile justice systems might offer integrated holistic services in the interests of children.

In terms of the definition of foster care, most experts associated with this project defined foster care as a placement with non-related carers, though in some countries (Estonia, Finland, Poland) other types of placement were also defined as “foster care”, for instance, placement in foster care institutions (such as family foster homes).

At present, in most European countries, foster care does not play an extensive role in the field of juvenile justice. Foster care is used in countries covered by our survey in the context of children’s welfare, where the well-being of children is at risk and families cannot provide adequately for their care. But in the majority of countries, there are no legal provisions for foster care as a response to offending, or the provisions may exist but are not applied in practice.

Table 1.2

<table>
<thead>
<tr>
<th>No foster care</th>
<th>Foster care as a (direct) response to juvenile offending possible in theory, but not used in practice</th>
<th>Foster care provided and used in practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Belgium*</td>
<td>England†</td>
</tr>
<tr>
<td>Croatia</td>
<td>Cyprus</td>
<td>France*</td>
</tr>
<tr>
<td>Denmark</td>
<td>Czech Republic</td>
<td>Netherlands†</td>
</tr>
<tr>
<td>Estonia</td>
<td>Germany</td>
<td>Sweden</td>
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<tr>
<td>Finland</td>
<td>Greece</td>
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<tr>
<td>Ireland</td>
<td>Luxembourg*</td>
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<tr>
<td>Italy</td>
<td>Poland*</td>
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</tr>
<tr>
<td>Lithuania</td>
<td>Portugal*</td>
<td></td>
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<tr>
<td>Romania</td>
<td>Slovakia</td>
<td>Slovenia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Spain</td>
</tr>
</tbody>
</table>

(Adapted from Parosanu, A. Alternatives to Custody, Final conference, Brussels 3 Dec 2014)

* Strong welfare approach in the juvenile justice system
† Treatment foster care scheme

In countries following a welfare model (like Belgium, Luxembourg and Poland), the use of foster care as a response to juvenile offending, as an educational welfare measure, is legally available, but in fact seldom used in the youth justice context. For example, in Belgium,
Alternatives to custody

foster care would be regarded as a non-standard response, and given the shortage of foster placements it is seldom a practical option. Again, in Poland, since 1982 it has been possible to place in foster care a juvenile committing a "punishable act", but in 2012 such placements were restricted to professional foster carers and only a few such placements have been made each year.

Other countries focusing on a justice approach sometimes provide for the placement of young offenders with non-related persons, which may formally become foster care placements (like Germany and Cyprus). But in most countries, the provisions are not used in practice, and foster care is located as a service of the child welfare system, and juvenile offending is dealt with separately in the criminal justice system.

Treatment foster care

Another option explored as a response to juvenile offending can be found in England, Netherlands, and Sweden, and consists of “treatment foster care". It represents a special type of therapeutically-focused measure imposed by the youth court.

In England, the idea of foster care that provides treatment as well as care for adolescents is not new; many schemes have been developed since the 1980s and come in various models and with various names: Treatment Foster Care (TFC), Specialist Foster Care (SFC), and Therapeutic Fostering, with Multidimensional Treatment Foster Care (MTFC) probably the best known.

Currently foster care is an option when juveniles are on remand (remand fostering – see below), when they are sentenced to a Supervision or Youth Rehabilitation Order (intensive fostering requirement) or at the post-custody stage (e. g. while on licence from a Detention and Training Order).

Intensive fostering

Intensive fostering, as a requirement of a Youth Rehabilitation Order, can only be applied in cases that otherwise would have attracted a custodial sentence. Research (Biehal, 2014) on intensive fostering to date suggests significant positive effects while young people are in placement. But a major challenge resides in these benefits being concentrated in the first year of the intervention, with no difference a year after leaving an MTFC placement.

Action for Children (AfC) in England has been a notable and innovative service provider for specialist fostering programmes, having placed over 450 children in either remand, post custody or MTFC placements (as an alternative to custody) since they began delivering these services some years ago. Their delivery of the MTFC programme, based on the Oregon model, has involved, in addition to support for foster carers, family therapy for biological parents, and skills training and supportive therapy for young people. Since 2005, the average success rate of Action for Children’s MTFC programmes has been 75 to 85 per cent. Outcomes have included a decrease in offending, engagement in education, and a return to the birth family and mainstream foster care. Post-custody fostering is also provided for young people, served under community supervision.

In the Netherlands, the MTFC programme can be applied as part of a non-custodial treatment order. This programme targets juveniles aged 12 to 18 years with severe antisocial
behavioural problems and a high recidivism risk. The programme runs from six to 12 months with the possibility of a one year extension. However, at present it is a very limited service. In 2011, the MTFC programme, as part of the non-custodial treatment order, was applied in the Netherlands only 11 times, though it has been argued that it could be appropriate for many more children.

Swedish legislation does not make a sharp distinction between child protection and youth justice, with the consequence that antisocial behaviour of youths under 20 years of age is a child welfare problem. One recent study examined treatment outcomes for 35 young people who were randomly allocated to either treatment by the MTFC programme or “treatment as usual” at two-years post-intervention. Generally, the results favoured MTFC over treatment as usual, suggesting that MTFC is an effective method in treating young people with behavioural problems in a Swedish context.

**Remand fostering**

Remand fostering can serve as an alternative to pre-trial detention. Placements in the UK are often included in the local authority’s general foster care pools, but sometimes specialist foster care schemes are available for children on remand, managed by Youth Offending Teams, local authority children’s services, independent fostering agencies and/or charitable organisations.

Action for Children in England has also been providing pioneering remand fostering and “alternatives to custody” schemes. These schemes aim to offer placements that provide a safe environment for a young person while they await trial or sentencing. AfC also advocates for young people in remand fostering. They do this effectively by working with other agencies, including YOTs, local authorities and trusts, child and adolescent mental health services (CAMHS), the courts, and approved specialist foster carers. Young people are encouraged to participate in planning and to give feedback on their placement.

**Due process and consent**

Thus there are some positive evaluation results for both remand fostering and intensive foster care schemes.

As our review of a range of specialist fostering schemes makes clear, fostering can be of very positive benefit for children in conflict with the law at different stages of the process. From the viewpoint of international juvenile justice standards, some may argue that, where imposed at the direction of a court, foster care can only be seen as good practice if the implementation of foster care schemes ensures that foster care is used only as a last resort and as an alternative to institutional care placements with restrictive regimes. It will also be important for the workability and potential success of arrangements that the consent of juveniles and, where possible, their families, to fostering plans is secured. In situations where there is a lack of consent for fostering from birth families, a rights-based approach will put the young person’s needs and best interests first, as child-friendly justice requires that due process, children’s rights and children’s effective legal protection and representation must always be safeguarded.
An outline of the book’s structure

This book is in three parts: the context, interventions, training programme. It has been structured in this way so as to engage the interest of a wide variety of readers – those concerned with policy analysis and research in youth justice and children’s services at both European and national levels; those concerned with advocating for and implementing change; and those concerned with training and delivery of services. Targeting the book at policy experts, managers, and practitioners in this way will enable them to support the roles of the other specialists whose collaboration is necessary for the development of foster care for young people in conflict with the law.

The “context” section of the book presents evidence and arguments to persuade policy makers of the value of specialist fostering for children in conflict with the law. The “interventions” section substantiates the case for developing and extending specialist fostering in our four partner countries with specific recommendations for changes in policy and practice. The comprehensive training programme and pan-European quality standards provide the practical means for professionals to prepare and train foster carers for this challenging but important branch of fostering.

The context

The introduction has brought into focus the goals of child-friendly justice, and the persistence of child imprisonment in many states, and then examined in more detail the limited role that foster care plays in youth justice, its benefits to children, and the potential for its greatly expanded use.

There follows an overview of promoting alternatives to detention for children in conflict with the law (jointly written by Eurochild and the International Juvenile Justice Observatory (IJJO), that sets out the key international and European juvenile justice and children’s rights standards, the EU policy context, and the components found in effective youth justice systems, including prevention, diversion and community-level services. The overview concludes with a call for an integrated approach to children’s’ rights, a critique of the inertia that allows custodial sentencing to remain far too common, and strong advocacy of foster care as an alternative to custody that can bridge justice and welfare in the interests of delivering child-friendly justice.

Interventions

National policy overviews for Italy, Bulgaria, England and Hungary, contributed by experts from our partner countries, provide an honest and searching review of each country’s achievements, needs, and shortcomings in youth justice – developments in all four countries are at different stages – and an assessment of the prospects for implementing an extended role for foster care in youth justice in the future. Each chapter concludes with recommendations which, if implemented with sufficient resources, determination and knowledge, would mark a significant step towards establishing or extending high quality specialist fostering services for young people in conflict with the law.

The following summaries of each partner’s national policy guidelines convey each partner’s
commitment to developing improved fostering services for children in conflict with the law, their sensitive analyses of the barriers to change, and their well-thought-out proposals and recommendations:

**England – University of Bristol and BAAF, London**

The chapter begins with summaries of relevant developments in the current youth justice system and its interface with fostering. Although there has been a reduction in the number of first time entrants to the system and young people in custody since 2009/10 in England, re-offending (in the 12 months following release from custody) remains high, at 35.4 per cent. Government strategies include improving risk assessment and existing youth custodial and resettlement provision, and controversially, new “secure colleges”. Community-based schemes for alternatives to custody are officially encouraged, but not widespread in practice.

There is evidence of promising results from a number of specialist fostering schemes, suggesting that quality foster care can improve life chances, reduce the risk of re-offending and also offer financial savings. Remand fostering schemes have also demonstrated their effectiveness.

Both remand and intensive fostering schemes need to be integrated within the wider system of children’s provision and interventions, and post-placement support is needed if benefits from the fostering interventions are to be successfully maintained. It is noted that children in conflict with the law still run the risk of being labelled and stigmatised, but advocacy and support from foster carers, who themselves are well trained and supported, can make a significant difference.

Finally, the writers argue that the future of specialist fostering schemes may depend on local authorities having new funding and incentives to invest on a substantial scale. Significant progress may hinge on devolution of custody budgets to local authorities and new regional commissioning arrangements. Such a structure also overcomes the unhelpful split between welfare and youth justice.

**Italy – Università del Salento**

Following a review of the regulation of foster care from civil, criminal, and international law perspectives, and a description of the discrepancies between current outcomes compared to the framework envisaged by the law, the University of Salento team considers the needs and problems of the actors in the foster care system conceived as an “ecosystem”, utilising the Secure Base model in this analysis.

They then draw attention to inadequacies in the allocation of resources to children’s care that are mirrored by a lack of professional training, infrastructure and available placements and the absence of a culture of fostering. The chapter highlights the urgent need to explore different and new forms of foster care, and the shortage of foster placements for adolescents, with 82 per cent of teenagers aged 14 to 17 placed in residential care, and only 18 per cent placed in foster families. It goes on to suggest a need to abandon traditional ideas of “family”, and to counter the perception of foster families as rivals in birth families’ relationship with their children, and instead regard foster carers as those with whom families can share responsibility for the care of their children.
Alternatives to custody

Given that around three-quarters of foster care placements (76%) are the result of judicial decree, and (in 2010) only 24 per cent of foster care placements were consensual, enhancement of the linkage between foster care and the juvenile justice systems is recommended.

The final section reviews the concept of “mild adoption” as a flexible form of longer-term care respectful of children’s roots and families of origin and analogous to intensive fostering; advocates a “clinical-practical” model of learning to promote development of new forms of foster care; and ends with comments on the opportunities and obstacles for an increased use of foster care for young people in conflict with the law.

Bulgaria – Social Activities and Practices Institute (SAPI) and Sofia University

The writers begin by examining the needs of children who engage in behaviours that conflict with the law highlighting, as key concerns, poverty and marginalisation, dysfunctional patterns of socialisation, experiences of abuse, mental health issues, and educational disadvantage. The varying behaviours that can lead to criminalisation are examined. The chapter then reviews current law and policy and professional systems governing child protection and juvenile justice; the crucial lack of structural connection between these two systems; the existing lack of alternatives to custody and the over-use of placement in institutional care; and how key institutions and professional groups can contribute to a positive change process.

The writers then set out what is needed for further progress: a new approach to inter-agency co-operation; opportunities to refer children in conflict with the law to children’s services in the course of investigation; consent at national level for implementation of the “Roadmap”, and at local level joint strategies and service level agreements between institutions.

The chapter concludes with the need for piloting intensive foster care in projects with NGOs; adopting standards for good enough treatment of adolescents at high risk; understanding the costs of new fostering services; awareness raising; regulatory change; strengthening the rights of all children in all legal procedures; and clearer mechanisms governing the relationship between the police and prosecution service on the one hand, and the system for child protection and social services for children at risk on the other.

Hungary – Family Child Youth Association, Budapest

The chapter begins with an overview of child protection and juvenile justice systems dealing with children with challenging behaviour and children in conflict with the law. Concern, echoed by the observations of the UNCRC Committee,\(^5\) is expressed specifically about the recent lowering of the age of criminal responsibility, from 14 to 12, for a number of offences.

Various difficulties in the foster care system are then identified, including a lack of support for the ongoing relationships between fostered children and their families; a need for more

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focus on reunification and reintegration; the absence of quality standards for foster care; the lack of specialist staff to support or supervise foster carers properly; and pressure on carers to accept a high number of children to gain adequate remuneration.

Although there have been moves towards de-institutionalisation and developing fostering, children with complex needs, including children who are offenders, are not specifically targeted by current policy, and no changes have been made in relation to the resourcing of the institutions in which they are placed.

In principle, children who have committed crimes could be placed in foster care, but to do this would require a modification of the Penal Code; a rethinking of the links between various relevant services; developing common standards; better training and development of professionals; and awareness raising of the positive outcomes achieved in other countries through specialist foster care, restorative and educational approaches. The chapter concludes that current policy drivers in Hungary in support of harsh punishment and “law and order” appear to be obstructing such developments.

Overview of focus groups and setting up a fostering service

Then follows a chapter that presents the key points emerging from our extensive focus groups held in different locations and in which we brought together institutional actors, a range of professionals and foster carers, birth families and young people. After setting out the rationale for the research methodology, key messages from the focus groups are summarised and themes identified.

A short chapter on setting up and operating a fostering service for children in conflict with the law is intended as a practical tool for operational managers, and covers the key stages in planning and developing a financially sustainable, quality fostering service.

Foster carer training and preparation programme and quality standards

This is the longest section of the book and provides a step-by-step training programme for preparing and training prospective foster carers new to fostering for the task of fostering children in conflict with the law.

The six sessions of the programme include all the material trainers and carers will need for this aim to be achieved, presented in a clear and practical way. At a number of points, users of the programme are invited to adapt or supplement the material by adding their own country-specific content. The programme reflects key messages from our partners on the areas to focus on if the support needs of vulnerable young people in conflict with the law are to be addressed by foster carers in a great variety of different country settings.

The commitment and skills of foster carers, and the work of fostering service providers, need to be sustained by a quality standards framework that encourages and supports excellence (by foster carers, social workers, and service providers) in child-centred practice. A chapter detailing proposed pan-European standards is therefore designed to complement the training programme.
Achieving a pan-European focus

It has been a challenge to ensure that this book is sufficiently wide-ranging in its focus to be a helpful and adaptable resource when used in different states’ systems. An early learning point for us in BAAF, based as we are in the UK, was not just how different are the welfare and youth justice systems in the UK countries compared to our partner countries (Bulgaria, Hungary, Italy, and network NGO partners in Belgium), but the care needed to ensure that we developed an approach that was truly pan-European. At a factual level this has meant fully taking into account the consequences for the UK youth justice systems of its still retaining such a low age for criminal responsibility; in fact it is still 10, which is so out of step with most other countries, where the European average is 14, and with our international rights-based obligations. But at the deeper level of mutual understanding between partners, participants have recognised the sensitivity and clarity needed from all of us to ensure that this awareness has been carried forward to the work on this book, where we have strived to free the training and quality standards materials of any narrow Anglocentric inflexions, and to ensure that they remain relevant across cultures and varying state systems.

By the stage when the focus groups were being planned, we also identified the need to review the definition of our Project’s remit.

This arose when we considered:

- the variations in the minimum age of criminal responsibility to be found in our partner countries and other European jurisdictions;
- the different terms and legal structures in use across European countries, which came to light through the IJJO’s work as part of the project;
- the risk that children in some countries face of compulsory placement in institutional care as a result of being in conflict with the law without the “due process” safeguard linked to appearing before a juvenile court.

We therefore agreed to adjust our definition of the children we are concerned with, in order to make clear that our focus encompassed children at risk of compulsory placement in institutions as a result of being in conflict with the law as well as those at risk of being sentenced to custodial institutions following conviction. The effect of this adjustment has been to make the protocols of intervention more relevant and accessible across all European countries. At the same time, we continued to use the original concept (of remand and intensive fostering) in relation to those European countries for which it is relevant (such as the UK).

Conclusion

The work undertaken by the Project has re-affirmed the commitment by all the partners to extending and promoting the use of foster care as a specialist resource for children in conflict with the law, although the agenda and methodology for advancing that goal will be different in each partner country.

Clearly, we advocate a variety of fostering models, and our training programme reflects this. So we recognise the value of setting targets with young people, the making of agreements, and the use of rewards and punishment for acceptable/unacceptable behaviour. All these techniques and skills have an important place in effective fostering. However, we also believe
in the value of strong training for foster carers in child development, attachment and resilience, and in understanding of the impact of deprivation, abuse and trauma, and we hope we have provided that.

We also give emphasis to the skills required for working as part of a team, and assuming and exercising the authority of one’s role as a foster carer on behalf of the child in interaction with others, whether professionals or family members. Above all, perhaps, we seek to equip and encourage foster carers to provide, if only for a time-limited period, a trusted and trustworthy relationship for the young person. As we say in the chapter on quality standards:

Foster carers are the “secure relational base” for the children they care for even if this is shared with other significant adults in the child’s life. From this secure base, the child’s needs, development and well-being become the focus of the placement enabled by the foster carer’s commitment, knowledge and expertise.

We have documented earlier the considerable distance European youth justice systems, as a whole, still have to travel to deliver child-friendly justice. In particular, the welfare of children in institutional and penal placements, subject to violence and deprivation, remains a profound concern.

Foster care can play a critically important role in remedying this. Fostering offers a direct alternative to custody, by providing an experience of safe care, nurturing relationships, boundaries and structured caregiving. It can also function as a flexible, time-limited resource, or as a way of creating family life when placements need to be longer term. Specialist foster care represents an important means of improving the life chances of children in conflict with the law through its capacity to provide safe care, practical support, advocacy for children’s educational and psychological needs, and the experience of a supportive relationship with a trusted and trustworthy adult. Above all, if developed on a scale and to a quality that our project advocates, it provides an alternative to custody and thus can protect children’s rights.

**Last words...**

The last word must go to the children themselves. As well as involving young people in each country’s qualitative research, BAAF, in conjunction with A National Voice, organised an extended focus group event in Manchester in October 2013 to consult a group of care experienced young people about our project. Here are some comments from those young people:

*I don’t think people can really make that transition from foster home to a residential placement, because ... it’s totally different from a foster placement. A foster placement is all warm and you feel welcomed and you feel like you’re part of the family, but then when you move into a residential home you’re just like a dumped kid.*

*I think if I’d stayed in a foster home, I’d be a better person for it. ‘Cause in a residential home, you get mixed in with the wrong crowds in a residential home. But in a foster home, you keep safe, I think.*

*When you’re in a foster placement, you got someone to look up to. Like I was in one, in a foster placement and I wanted to call her my mum, like she was always there for me, like I could just talk to her, I could go on about the other placement, but she’d still be there to listen.*

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INTRODUCTION

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(Alternatives to Custody Project, Young people's consultation group)

A child rights-based justice system that prioritises children’s welfare, development and rehabilitation must have at its heart a diversion from the justice system of children in conflict with the law and the development of effective alternatives to custody.

According to the UN Convention on the Rights of the Child (UNCRC) and other international and European juvenile justice and children’s rights instruments, detention of a child should be used only as a measure of last resort and for the shortest possible period of time. In addition, they state clearly that deprivation of liberty has negative consequences for the child’s development. A wide variety of possible alternative measures must therefore be made available, to provide appropriate care, support and restorative action, and to ensure that children in conflict with the law are dealt with in a manner appropriate to their well-being and proportional both to their circumstances and the offence.

Fostering is identified by the UNCRC as one of the alternatives to custodial and institutional measures for young people in conflict with the law. The Council of Europe Guidelines on Child-Friendly Justice state that children are to be treated with ‘care, sensitivity, fairness and respect’, and in a manner ‘adapted to and focused on the[ir] needs and rights’. High quality foster care can provide the emotional stability and psycho-social support necessary for young people to build their self-esteem and change their behaviour. Such developments are likely to be more effective in reducing recidivism rates than punitive or institutional interventions that do not address these issues.

Despite the existence of these widely endorsed international standards, most EU Member States have insufficient availability of viable alternative measures to make detention as a last resort a reality. Many countries are experiencing a trend towards more punitive responses to offending behaviour, and reduced investment in rehabilitative and restorative approaches that address the underlying causes of young people’s offending behaviour. Further, preventative measures that aim to strengthen children and young people’s resilience and divert them from offending are heavily under-resourced.

This chapter begins with an outline of the relevant international and European juvenile justice and children’s rights standards, and an overview of the EU policy context. The key components of an effective justice system are then set out, including prevention, diversion and community-level services. This is followed by findings from a desk analysis of national juvenile justice systems, outlining the key areas where progress is needed, and a conclusion in which key messages are set out about the positive role that foster care can play in the ongoing promotion and practical implementation of the Council of Europe’s Guidelines on Child-Friendly Justice.
Relevant international and European standards

Below is a descriptive outline of the key international and European instruments that underpin a rights-based juvenile justice system.

The UN Convention on the Rights of the Child (1989) (UNCRC)

The UN Convention on the Rights of the Child (UNCRC) was adopted by the UN General Assembly on 20 November 1989. It is ratified by all EU Member States, which are therefore committed to implementing its provisions. It should be noted that the UNCRC is only justiciable in those jurisdictions that have incorporated its provisions into domestic law. In the UK’s case, for example, it does not incorporate international treaties directly into its domestic law, but is committed to taking alternative steps within each jurisdiction to ensure that all aspects of law and practice are compliant with the UNCRC. Article 40(1) sets out the overall aim of a juvenile justice system, which is to promote the social reintegration of children in conflict with the law and help children play a constructive role in society. The purpose of the juvenile justice system should not be retributive or punitive, but should be to foster the well-being of children and address offending behaviour in a manner appropriate to their development.

In addition, the UNCRC provides for several specific guarantees to protect the rights of children in conflict with the law, including the principle that the deprivation of liberty has to be a measure of last resort (Article 40(3)(b)) and the promotion of appropriate alternative measures to reduce detention of children (Article 37(b)). Numerous other provisions, e.g. the best interests of the child principle (Article 3); the right of the child to be heard (Article 12); and the right to education (Articles 28 and 29), are also relevant in this context.

UN standards and norms in juvenile justice

Three key international instruments provide detailed guidance on juvenile justice and contain principles relating to prevention, diversion, the use of detention and its alternatives.

1 UN Standard Minimum Rules for the Administration of Juvenile Justice (1985) (the “Beijing Rules”)

The Beijing Rules were adopted by the UN General Assembly in its Resolution 40/33 of 29 November 1985. They set out rules for the administration of juvenile justice, with a particular focus on children's rights, and contain minimum conditions, internationally accepted, for the treatment of juveniles in conflict with the law.

These rules provide guidance for the protection of children's and young people's human rights in the development of separate and specialist youth justice systems 'conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles' (United Nations General Assembly 1985: Rule 4.1) (Goldson, 2014), and make clear that juvenile justice systems should emphasise the well-being of the juvenile and respect the proportionality principle (Rule No.5). They include several provisions stressing that detention should be a measure of last resort; that consideration shall
be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority; and that a large variety of alternative measures should be made available, such as foster care (Rules No.11, 13, 18 and 19).

2 **UN Rules for the Protection of Juveniles Deprived of their Liberty (1990) ("JDLs"/the "Havana Rules")**

The Havana Rules were adopted by the UN General Assembly in its Resolution 45/113 of 14 December 1990 (United Nations, 1990b). They provide rules that apply to all juveniles held in any form of detention. They reinforce the principles of non-detention as set out in the UNCRC and the Beijing Rules (Rules 1, 2, and 17). The rules centre around a number of core principles including that deprivation of liberty should be a disposition of 'last resort' and used only 'for the minimum necessary period' and, in cases where children are deprived of their liberty, the principles, procedures and safeguards provided by international human rights standards must be seen to apply as minimum and non-negotiable benchmarks (Goldson, 2014).

3 **UN Guidelines for the Prevention of Juvenile Delinquency (1990) (the "Riyadh Guidelines")**

The Riyadh Guidelines were adopted by the UN General Assembly in its Resolution 45/112 of 14 December 1990. They set out standards for prevention of juvenile delinquency, including measures for the protection of young people who are at social risk. These guidelines are aimed at addressing the root causes of offending. They are underpinned by diversionary and non-punitive imperatives: ‘the successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents’ (paragraph 2); ‘formal agencies of social control should only be utilised as a means of last resort’ (paragraph 5); and ‘no child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions’ (paragraph 54) (United Nations General Assembly, 1990a; Goldson, 2014).

**UN Committee on the Rights of the Child, General Comment No. 10 (2007)**

The Committee on the Rights of the Child is the body of independent experts that monitors implementation of the UNCRC by its State parties. The Committee examines the regular reports submitted by the States and sets out its concerns and recommendations in Concluding Observations. The Committee also publishes its interpretation of the content of human rights provisions, known as General Comments.

The Committee’s frequently quoted General Comment No. 10 on children’s rights in juvenile justice has been widely recognised as an important source of guidance and recommendations to States in their efforts to establish and operate juvenile justice systems in compliance with the UNCRC. In this General Comment, the Committee provides an interpretation of the leading principles and the core elements of a comprehensive policy for juvenile justice, amongst others, the best interests of the child (Article 3); the right to life, survival and development (Article 6); the right of the child to be heard (Article 12); the prevention of juvenile delinquency; diversion from judicial proceedings; alternatives to detention; and the use of deprivation of liberty.
Recommendations and guidelines of the Council of Europe

The Council of Europe has adopted numerous relevant instruments over the years, with particular emphasis on the importance of education, social reintegration and prevention work with juvenile offenders.

Council of Europe Recommendation R (87) 20 on Social Reactions to Juvenile Delinquency

This recommendation emphasises that education and social integration shall be the main objectives of a juvenile justice system. It calls upon governments to review their legislation and practice with a view to undertaking particular efforts for the prevention of juvenile delinquency by implementing a comprehensive policy promoting the social integration of young people and providing preventative programmes; to develop measures for diverting offenders from court processes; and to ensure that interventions are specifically designed to support social integration and inclusion of young people in conflict with the law.


This recommendation highlights that responses to juvenile delinquency should be multidisciplinary and multi-agency in their approach, and that the juvenile justice system should be seen as one component in a broader, community-based strategy for preventing juvenile delinquency. The principal aims of juvenile justice and associated measures for tackling juvenile delinquency should be to prevent offending and re-offending; to (re)socialise and (re)integrate offenders; and to address the needs and interests of victims.

A range of suitable alternatives to formal prosecution must be made available, respecting the principle of proportionality, and reflecting the best interests of the juvenile. Where possible, alternatives to remand in custody should be used for juvenile suspects, such as placements with relatives, foster families or other forms of supported accommodation. To address serious, violent and persistent juvenile offending, States should develop a broader spectrum of innovative and more effective community sanctions and measures, addressing offending behaviour and the needs of young offenders.

Council of Europe Recommendation R (2008) 11 on European Rules for Juvenile Offenders Subject to Sanctions or Measures

These rules set out important principles to be followed in the treatment of juvenile offenders subject to community sanctions or measures or any form of deprivation of liberty. They require that sanctions or measures are based on the best interests of the juvenile, are proportional, and take account of the child’s age, well-being, development, capacities and personal circumstances. Juveniles must be able to participate effectively in proceedings, whereby measures are imposed and implemented, and be entitled to enjoy all their rights, throughout the proceedings. A multidisciplinary and multi-agency approach is also required to ensure holistic treatment and continuity in the care of juveniles.
Alternatives to custody


In 2009, the Council of Europe Commissioner for Human Rights published an issues paper on Children and Juvenile Justice, which focused on the need for reform in juvenile justice with regards, in particular, to the use of detention and the availability of alternatives to detention. The Commissioner highlighted the importance of alternatives to court proceedings (diversion), as well as the need to ensure that children's rights are adequately protected in such processes.

Council of Europe Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (2010)

In 2010, following widespread consultation with children and children's rights experts, the Council of Europe developed a set of guidelines on child-friendly justice, which build on the fundamental principles of participation, best interests of the child, dignity, protection from discrimination, and the rule of law set out in international instruments, and from the case law of the European Court of Human Rights. Goldson (2014) has noted the Council of Europe's unifying human rights objective for the guidelines; in the Preamble it states that they are intended to: 'achieve a greater unity between the member states...by promoting the adoption of common rules in legal matters...[and] ensuring the effective implementation of...binding universal and European standards protecting and promoting children's rights' (Council of Europe, 2010, Preamble).

The guidelines address the treatment of all children who come into contact with justice systems, either as offenders, victims or witnesses, taking into account the relevant international standards. They contain practical information on how the justice systems can be made more accessible to children, can take their specific needs into account, and respect their rights at all stages of the proceedings. According to the guidelines, a child-friendly justice system treats children with dignity, respect, care and fairness and takes their views seriously.

Although their main focus is on legal and administrative proceedings in criminal and civil law, they have separate sections on detention, stressing that any form of deprivation of liberty of children should be a measure of last resort and for the shortest appropriate period of time. The Guidelines highlight that ‘Alternatives to judicial proceedings, such as mediation, diversion (of judicial mechanisms) and alternative dispute resolution should be encouraged whenever these may best serve the child’s best interests.’

The EU context

EU legislation and policy have an enormous impact on the lives of children in Europe. The Treaty of Lisbon (notably Article 3(3)) makes the promotion and protection of the rights of the child one of the explicit objectives of the EU.¹

In 2011, the European Commission adopted the European Union Agenda for the Rights of

¹ ‘Now, if words have true meaning, to “promote” means to do something new and something effective’ (Perillo, 2012).
the Child, reaffirming the EU’s commitment to promoting, protecting and fulfilling the rights of the child in all relevant EU policies. Child-friendly justice was identified as one of the key areas where the EU can bring real added value. In particular, the Agenda includes a commitment to promote use of the Council of Europe Guidelines on Child-Friendly Justice and to take them into account in future legal instruments in the field of civil and criminal justice.

Another landmark instrument, the European Commission Recommendation, *Investing in Children: Breaking the cycle of disadvantage* (2013), was endorsed by the European Council in 2013. It promotes an integrated and child rights-based approach to address child poverty and promote children’s well-being, based on three key pillars: access to resources, access to services, and child participation. The Commission recommends that Member States implement the child’s right to be heard in all justice-related decisions and promote child-friendly justice, in particular, by giving children effective access to court and judicial proceedings.

Concrete EU actions to achieve and promote child-friendly justice include the adoption of a directive on victims' rights, raising the level of protection of vulnerable victims, including children, as well as a Commission proposal for a directive on procedural safeguards for children suspected or accused in criminal proceedings.

In June 2014, the European Commission released a study on children’s involvement in criminal proceedings, identifying key features and variations in the legal and institutional context of the 28 EU Member States. In parallel, the Fundamental Rights Agency of the European Union is also conducting research in 10 Member States within the Children and Justice project, which looks at the treatment of children in national justice systems. It is also of note that, following a public consultation, the European Commission is developing EU guidance on integrated child protection systems.

**Key elements of effective juvenile justice systems**

The following section aims to unpick some of the key elements of effective, child rights-based juvenile justice systems, as outlined in the international guidance above.

**Underpinning effective juvenile justice systems with investment in social protection and child welfare – key trends and concerns**

To prevent juvenile delinquency and children coming into conflict with the law in the first place, international standards call upon governments to promote comprehensive policies

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4 See more: www.childreninjudicialproceedings.eu

Alternatives to custody focusing on social integration and prevention. Prevention can operate at primary, secondary and tertiary levels. While generally only tertiary programmes (those aimed at preventing recidivism for children who have admitted or have been convicted of an offence) are regarded as falling within the juvenile justice system, it is essential that primary (i.e. universal) and secondary (i.e. targeted) prevention programmes are developed as part of a broad policy framework focused on social inclusion (Hamilton, 2011).

The European Commission Recommendation, *Investing in Children: Breaking the cycle of disadvantage*, places a strong focus on early intervention and preventive measures. It promotes universal policies, aimed at promoting the well-being of all children, coupled with targeted measures, aimed at supporting the most disadvantaged. Prevention is most effectively achieved through integrated strategies that combine support to parents to access the labour market with adequate income support and access to services that are essential to children’s outcomes, such as quality (pre-school) education, health, housing and social services (European Commission, 2013).

There are a number of underlying drivers of juvenile offending, such as poverty, school exclusion or drop-out, abuse or neglect, family breakdown, mental health issues, and drug/alcohol abuse. They need to be addressed by preventative measures targeting families and children most in need, work with schools and adapting teaching approaches to prevent early school-leaving, and support that helps families with coping strategies (Council of Europe, Commissioner for Human Rights, 2009).

It is therefore important to frame the debate on appropriate alternatives to custody within a broader systems approach that addresses whole populations. Upstream measures that prevent harm before it occurs can reap significant social and economic dividends (Coote, 2012). Moving upstream requires prompt interventions that respond to first signs of difficulties among individuals, and within families and communities. Such an approach will include comprehensive strategies to address poverty and socioeconomic inequalities in society, as well as investing in universal, high-quality education, early childhood education and care, and other essential services.

According to Eurochild’s 2012 report on the impact of the economic crisis on children and young people, there is evidence throughout Europe of disinvestment in social protection, education and health services (Ruxton, 2012), in direct contradiction to a preventative, upstream approach. Pressure on downstream services such as statutory social care, child protection, and juvenile justice systems will therefore increase. Whilst it is important to build high-quality individualised responses to the complex needs of young people in conflict with the law, this should not be at the expense of understanding the broader picture and addressing the drivers behind children and young people entering the juvenile justice system.

Keeping young offenders out of the juvenile justice system – promoting diversion

Acknowledging that any contact with the justice system is potentially harmful for children, international standards call upon States to develop measures that allow them to be dealt with without resorting to judicial proceedings (“diversion”), wherever appropriate and desirable. General Comment No.10 of the Committee on the Rights of the Child also stresses
the need to promote the use of diversion in as many cases as possible, and outlines its benefits. In addition to avoiding stigmatisation, this approach has good results for children and is in the interests of public safety, and has proven to be more cost-effective (UN Committee on the Rights of the Child, 2007).

In its recent publication, the International Juvenile Justice Observatory (IJJO) also stresses that diversion is a cost-effective way of improving the youth justice system, and it is more likely to stop children from re-offending. It can provide children with a better chance of rehabilitation, and can make it easier to identify the root cause of the offending behaviour and target this through support services (International Juvenile Justice Observatory, 2013).

Addressing children’s offending behaviour – the use of alternative measures and sanctions

Where diversion has not been possible, priority should be given to community-based alternatives that can better respond to the special needs, problems, interests and concerns of young people and address their offending behaviour, rather than custodial measures that rarely prevent reoffending and tend to be highly damaging for children. Such alternatives are also a more effective means of reducing reoffending.

Effective responses to children’s offending behaviour require proper understanding of children’s lives and circumstances and the situations that led to their acts. Children in conflict with the law may themselves be victims of neglect, abuse or social exclusion. Added to this are inequalities such as poverty, poor housing, and limited access to health care and leisure facilities. Therefore the underlying causes of offending behaviour in children are best tackled through investment in services beyond the juvenile justice system, and measures or sanctions in response to their behaviour should promote education and social integration.

More use could be made of interventions that engage and empower the child’s family, peers or community to identify and implement solutions. Mediation services, family group conferencing and other interventions are gaining ground but are still under-used options.

Giving children and young people a voice

Children’s right to express their views freely in all matters affecting them is a general principle of the UNCRC, which should be fully respected and implemented throughout every stage of the process of juvenile justice (UN Committee on the Rights of the Child, 2007). The UNCRC Committee’s General Comment, The Right of the Child to be Heard (UN Committee on the Rights of the Child, 2009), gives further guidelines on how to implement this principle, with special provisions concerning children in judicial proceedings, including children in conflict with the law. The document stresses that children’s views may add relevant perspectives and experience and therefore should be considered in decision-making. Hearing and taking into account their views is essential to the effective treatment of children in conflict with the law and to achieve the goals of juvenile justice, namely rehabilitation and reintegration.
Alternatives to custody

One of the recommendations formulated by children involved in the “Speak Up!” project was to stop placing children in custody unnecessarily, since it has a substantial impact on their lives, and instead to introduce alternative sentences. Amongst the main objectives of this project was to empower children whose circumstances or characteristics make them particularly vulnerable by demonstrating how they can be heard and their voices taken seriously. Those consulted included Roma children, children with disabilities, children living in poverty, asylum-seeking children, children in care (foster care and residential care) and children who had been in contact with the juvenile justice system. The findings of the project clearly show the importance of listening to children and facilitating their participation.

Eurochild’s publication, Valuing Children’s Potential (2010), also demonstrates that all children and young people, including disadvantaged and excluded children, have the potential to participate in decisions affecting their lives. It includes a case study from the Netherlands describing how children have been trained by their peers from the Dutch National Youth Council to set up a youth council in a closed youth care institution. The process of participation increased the children’s self-esteem, gave them confidence, and taught them how to express their opinions using clear arguments and how to listen to each other. The good practice examples compiled in this report have shown that when children’s opinions and views are taken into consideration, policies and services affecting them will often change in a positive way and become more child-friendly.

State of play of juvenile justice systems across Europe

This section provides a comparative overview of legislation and practice at national level. Whilst all EU Member States have adapted legislation to align to a greater or lesser extent with international standards, the degree of their implementation and the underlying approaches to youth offending are widely divergent across the region.

Overview: the influence of international standards on national legislation

While some provisions have been universally adopted at a formal or aspirational level, especially those concerning the priority of educational measures and sanctions over detention and other forms of deprivation of liberty, only in certain countries has this led to modifying the response to criminality at its roots.

One of the clearest indicators of this radical transformation is to be found in the differentiation between the adult and juvenile penal systems. Certain Member States, for instance, Germany, Austria and the Netherlands, have extensively revised procedural laws for juveniles. Compared to those for adults, which are by nature developed on a principle of punishment and retribution, provisions relating to children tend to focus on the offender rather than on the offence, in light of the objectives of social integration and rehabilitation.

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6 Speak Up! was a two-year project on children’s rights led by Eurochild and financed by the EU Fundamental Rights and Citizenship Programme (2011–2012). The final report is available at www.old.eurochild.eu/fileadmin/Projects/Speak Up/SpeakUpreportFINAL.pdf
7 The results of this section have been produced in collaboration with Andrea Parosanu, Ineke Pruin, Philip Horsfield, and Joanna Grzywa from University of Greifswald, Germany.
In other systems, the prevailing paradigm appears to be inspired by family and youth welfare law. In such cases, for instance, in Poland or Bulgaria, offences are interpreted as an expression of children’s malaise, rather than being addressed only as a threat to security.

Finally, one of the most interesting innovations to the juvenile criminal system, especially developed in Northern Ireland, is the introduction of a restorative approach to justice. This implies more direct involvement of the community, which can facilitate gradual reintegration into society, as well as a more direct role for the offender and victim. In doing so, practices such as mediation and conferencing, if introduced in ways respectful of the views of all parties, can allow for improved understanding and elaboration of the consequences of one’s actions, while reducing the stigma on the individual, and therefore favour an overall positive and constructive experience of justice, through being participative measures.

Despite their variable implementation, the provisions of the UNCRC and the subsequent international and regional standards have ensured that the proportionality of sanctions applied to children should always be taken into account, and this should include consideration of what measure would be more appropriate for the present and future well-being of the child. They have therefore succeeded in influencing States to adopt various instruments to respond to youth offending, the degree of intrusiveness of which depends on the seriousness of the offence. The adoption of such instruments is a practical application of the principle that measures entailing deprivation of liberty should be applied only as a last resort, and therefore entail a combination of the justice perspective with that relating to child protection. Systems that integrate welfare as well as justice elements to respond to young offenders are now more common, although it is almost impossible to find an example of a pure approach (Cavadino and Dignan, 2006; Goldson and Muncie, 2006; Junger-Tas and Decker, 2006; UNICEF, 2008; Dünkel et al., 2011). It is important to consider that such combinations differ in their scope concerning the age groups or the behaviour that they encompass (e.g. in many systems status offences alone can implicate children in juvenile justice processes; in others, only “criminal” behaviour can lead to reactions from the youth court (for an overview, see Doob and Tonry, 2004; Pruin, 2011), but they all have in common the provision of a greater role for diversion.

The case for diversion

Explicitly recommended as more responsive to children’s needs since the Beijing Rules, diversion entails the possibility of removing a young person from the criminal justice system before they face a criminal trial, and entrusting his or her rehabilitation to different means, often through the referral to health or social services.

Such an approach also addresses more directly the core reasons for youth criminality, as the majority of children in conflict with the law come from deprived and marginalised communities and, as a result, recognises that their exposure to crime is also a failure of the State to protect them.

The other strong argument in favour of diversion is its effectiveness in reducing recidivism rates. Despite the difficulty of measuring this aspect, various international studies that used random assignment or quasi-experimental design reached predominantly positive conclusions, showing that recidivism rates after diversion are lower, or at least not higher,
Alternatives to custody

than after formal court procedures and convictions (Pruin, 2014). Furthermore, according to German studies, the strategy of expanding informal sanctions has reduced the juvenile court’s workload and enhanced special prevention (Heinz, 2005, cf. Dünkel, 2009).

This principle has found various forms of application in individual European systems, which can differ both procedurally and substantively. Diversion from the criminal justice process may take place prior to a prosecution taking place, whether on the basis of a decision by the police or by the prosecution authority, although this may be conditional on the young person taking specified steps. Alternatively, diversion may take place during the court process, under judicial supervision.

Expansion of alternatives

If a case is not diverted but reaches the court, many juvenile justice systems provide different disposal options in the phase of adjudication. The so-called “community sanctions”, for instance, include all sanctions and measures that do not lead to deprivation of liberty in any form (see Beijing Rules, No.18). They are therefore an essential instrument to guarantee that recourse to deprivation of liberty is used exclusively as a “last resort”, as required by Article 37(b) of the Convention on the Rights of the Child. Such alternative sanctions were first introduced in the 1970s by the United States and the UK and were later developed in the 1980s in many other criminal systems.

As illustrated, the influence of international principles of child protection on national legislation has triggered an adaptation of juvenile justice systems all over Europe, in ways that provide for the stronger combination of welfare and justice approaches.

In this light, a comprehensive view of applicable measures can be illustrated, taking into account, on the one hand, the crucial objective of diverting the child from the criminal system, through different options introduced at various stages, and on the other hand, the guiding proportionality principle.

They follow a certain hierarchy that is based on the order in which priority shall be given to the most educational, most appropriate sanction (see Dünkel et al, 2011). This regularly opens up the possibility of combining a number of educational measures or sanctions. We can find the following levels of sanctioning, ordered from the least to the most intrusive:

1. warnings, reprimands, conviction without sentence, educational “directives”;
2. day fines, community service, reparation orders, mediation;
3. social training courses and other more intensive educational or supervision sanctions;
4. mixed sentences, combination orders (which can be characterised as a more “repressive” (intrusive) way of dealing with juvenile offenders);
5. suspended sentences without supervision by the Probation Service;
6. probation;
7. fostering (whether prior to, during and/or after a prosecution or court process)
8. suspended sentences with supervision by the Probation Service, electronic monitoring;
9. educational residential care, youth imprisonment and similar forms of deprivation of liberty.

The least invasive sanctions are warnings or reprimands (verbal sanctions), which are followed by a wide range of alternative sanctions that exert more or less influence on the life of the offender.

Many sanctions systems provide, from this very first stage, the use of educational measures, such as educational “directives” employed in Austria and Germany. Applied either as independent sanctions or as complementary elements of other measures (as in Denmark, where they can accompany probation or suspended prison sentences), they are based on the belief that the educational approach is necessary from the point of first contact that children have with the justice system. In such cases of early intervention, the timing is considered crucial to enhancing the effectiveness of the measures that are used, in order to reduce the impact of risk factors.

For educational directives to be truly effective, a certain degree of discretionary power may need to be vested in the judiciary, in order that this aspect of children’s needs can be addressed within court processes. Another discretionary power that is available to the courts in some States is the option of fining juvenile offenders. However, the usefulness of this option is limited, as juveniles will often be unable to pay for fines with their own money.

It is also important to recognise that, due to the wide-ranging needs of young people concerning their personal development, educational measures need to fulfil multiple purposes. First of all, traditional education should be accompanied by vocational training, and secondly, the dimension of education should include a relational aspect. In this area, various countries have successfully implemented creative and constructive measures such as, for instance, social training courses (Germany) or so-called labour and learning sanctions or projects (the Netherlands), where the young people can learn to deal with their aggressive behaviour or where they can be trained according to their personal skills.

Besides educational measures, restorative justice practices, especially victim–offender mediation, have become more important in juvenile justice systems, because they favour effective redress for the offence and improve relations between the young person and the community. Most European countries have established a legal framework for mediation, including victim–offender mediation. However, the degree of effective implementation differs, due to varying levels of support by justice officials, the opportunities to apply inside or outside criminal proceedings, and organisational infrastructure. Another characteristic of “restorative justice orders” is their creative approaches to victim compensation. Besides victim–offender mediation, family group conferencing is being widely used in several countries such as Belgium, Republic of Ireland, Northern Ireland and the Netherlands. Others have established pilot projects, for instance, in Austria (so-called social-net conferencing), the Czech Republic, Germany and Hungary.

Another alternative measure is community service, which combines slight “punishment” with reparative and rehabilitative elements. In this case, the offender offers ‘a “payback” to the community via unpaid work’ (Goldson, 2008, p 78). Some countries have set age limits for the imposition of community service – for example, in England and Wales, Republic of Ireland and Northern Ireland, community service can only be imposed on young people aged 16 or older. Huge differences can be observed with respect to the maximum number of hours: the
Alternatives to custody

Limit lies between 30 hours in Belgium and 250 hours in Canada, 300 hours in Denmark or even 400 hours in New Zealand (see Dünkel and Lappi-Seppälä, 2014). This type of measure has become quite widespread across Europe.

“Corrective labour” differs from community service in that it allows a part of the young offender’s regular earnings to be deducted in favour of the State over a certain period of time (Unicef, 2008, p 30). The measure can be found primarily in Central and Eastern Europe.

Some countries have introduced intensive supervision or educational orders in the form of special “centres” to which juvenile offenders are sent for a few hours a day (England, Wales, France and Italy, among others). Whether these measures fall into the scope of “community sanctions” is questionable, but as they are used in practice to avoid imprisonment or comparable forms of deprivation of liberty in closed institutions, they deserve to be listed within this category.

On the other hand, short-term detention centres, where young people are sent for a few days or weeks, cannot be defined as an alternative measure despite some jurisdictions presenting them as a means of avoiding “real” imprisonment. However, such centres fall squarely within the definition of deprivation of liberty. They remove the young person from their social surroundings, risk stigmatisation and other negative outcomes of imprisonment.

Finally, all over Europe, supervision or surveillance orders play a special role as alternatives to imprisonment. In most cases, the social service or probation service is responsible for the execution of these measures; otherwise, the young offenders are usually supervised by their legal representative, normally their parents (e.g. “house arrest” in Italy). The specific objective of this latter arrangement is to avoid isolating the young person from his or her familiar and social surroundings in order to prevent disturbances to his or her personal development.

Looking ahead: bridging protection systems and justice

From a comprehensive review of the practice, it clearly emerges that diversion has been considerably expanded in many European countries, such as Austria, Germany, Republic of Ireland, the Netherlands, Northern Ireland, Romania, Slovenia, Spain and Sweden, where more than 50 per cent and up to 70 per cent (Germany), or even about 80 per cent (Northern Ireland) of cases involving juvenile offenders are diverted (see Dünkel et al, 2011; Pruin, 2014).

Nonetheless, despite the considerable progress that has been achieved in providing for diversion mechanisms, and the variety of measures and sanctions designed to avoid juvenile detention, some crucial issues remain and hinder further development and comprehensive protection of the rights of children. In particular, two major challenges exist to the development of child-friendly juvenile justice systems across Europe.

- Firstly, even though all justice systems in Europe allow for suspension of juvenile prison sentencing, in reality custodial sentencing is still widely perceived as an appropriate or even promising response to juvenile offending. There is a real risk that deprivation of liberty, rather than being eliminated, is merely disguised under different names, as in the case of closed educational care or schools for “juveniles with special needs” (see Dünkel and Stańdo-Kawecka, 2011).

- Secondly, implementation of the available provisions is severely hampered by the lack of
infrastructure and the ongoing separation between the social and judicial systems. In Central and Eastern European countries in particular, while legal provisions provide for a considerable variety of alternative sanctions, their application by judges and prosecutors is very limited.

In some cases, the lack of diversion is somewhat compensated for by the diffuse application of community sanctions. In these systems, such as in the Czech Republic, Spain (Catalonia) and Switzerland, although the child is not diverted from the criminal system at an early stage, deprivation of liberty is mostly avoided, and clear preference is attributed by the court to less disruptive and more rehabilitative measures. For example, in Slovenia and Serbia, almost all court decisions apply educational measures (98 per cent and 95 per cent respectively). Nonetheless, it is quite frequently the case, for instance in the Czech Republic, Hungary, Latvia, Russia and Slovakia, that the predominant community sanction merely consists of a suspended prison sentence. The reason for these shortcomings mostly lies in the lack of infrastructure and funding to develop alternative programmes. Nonetheless, the clear-cut separation between social and judicial systems is a continual barrier to implementation of alternatives and diversion options.

The case of foster care is illustrative of the segregation between the two systems of juvenile justice and child protection. Both follow different legislation, are governed by different ministries and apply different approaches, causing the fragmentation of care and assistance to young people. The present comparative analysis shows, in fact, that while foster care programmes are envisaged in most European countries, they do not play a major role in any juvenile justice system. With the exception of England, Sweden and the Netherlands, where treatment foster care has been introduced as a special programme for juvenile offenders with specific needs, this service remains exclusively part of the child welfare system. Elsewhere, this means that it is only accessible to those children whose needs for special assistance are determined on specific bases, such as the lack of a supportive family structure, but not to those individuals who are in conflict with the law.

It is clear that foster care offers distinctive features such as tailored support and assistance, and that it can be particularly responsive to the individual needs of the child.

Young people in conflict with the law, in most cases, need support to build or rebuild a healthy connection to society, to be able to engage or re-engage in education, and to experience a positive process of personal development. From this perspective, a more systematic integration of welfare and justice is not only desirable, but necessary in order to guarantee an adequate level of protection to children in conflict with the law.

**Conclusion**

Eurochild and the IJJO are networks promoting a children’s rights-based approach to social protection and welfare policy and practice and juvenile justice systems and policies respectively. Their respective memberships have distinct expertise and experience, but both unite in the vision of the rights and dignity of every child. BAAF, likewise, as the lead NGO for the Alternatives to Custody project, is a membership and network-focused organisation. As partners in this project, all three organisations are confident of the support and influence of
their members in advocating for the positive use of foster care for young people in conflict with the law.

Professional networks are particularly crucial in reforming youth justice, as youth justice has become more complex in the opening decades of the 21st century, as ‘discourses of child protection, restoration, punishment, public protection, responsibility, justice, rehabilitation, welfare, retribution, diversion, human rights, and so on, intersect and circulate in a perpetually uneasy and contradictory motion’ (Goldson and Muncie, 2009).

As Goldson has remarked more recently:

_The significance of professional values, principles and discretion and youth justice practitioner culture is crucially important in this context. Even highly centralised state agencies and national bodies are – at least in part – “power-dependent” on regional and local bodies for the operationalisation of policy. Practitioners may comply and implement national policy or resist and subvert it. It follows that this relational, power-dependent process, can generate both the advancement of specific youth justice strategies (for example, punitivism) and the dilution – even negation – of others (for example, human rights-compliant practice), or the reverse, whereby punitivism is resisted and human rights approaches are promulgated._ (Goldson, 2014, p. 46)

Advocacy of foster care can also be situated within a growing body of research on the effectiveness of treatment programmes for juvenile offenders, the findings of which identify what makes for effective programmes. Lipsey’s (2009) comprehensive meta-analysis of the effects of delinquency interventions, consisting of 548 studies that spanned the period from 1958 through 2002, based on research conducted in English-speaking countries and reported in English, found that one important component of positive outcomes concerned the overarching “philosophy” of the intervention.

As he wrote (Lipsey et al, 2010, pp 23–4):

_Two broad programme philosophies could be distinguished. The first featured external control techniques for suppressing delinquency and included three categories:_

- **Programmes oriented toward instilling discipline** (e.g. paramilitary regimens in boot camps)
- **Programmes aimed at deterrence through fear of the consequences of bad behaviour** (e.g. prison visitation programmes such as Scared Straight)
- **Programmes emphasising surveillance to detect bad behaviour** (e.g. intensive probation or parole supervision)
  A contrasting philosophy involves attempts to bring about behaviour change by facilitating personal development through improved skills, relationships, insight, and the like. This therapeutic philosophy included the following categories of programmes:

- **Restorative** (e.g. restitution, victim–offender mediation)
- **Skill building** (e.g. cognitive behavioural techniques, social skills, academic and vocational skill building)
- **Counselling** (e.g. individual, group, family; mentoring)
- **Multiple co-ordinated services** (e.g. case management and service brokering)

_When the mean effects on reoffending rates were compared for the programmes_
associated with these two broad approaches, the programmes with a therapeutic philosophy were notably more effective than those with a control philosophy.

The ethos of specialised foster care for children and young people in conflict with the law is a clear example of the contrasting philosophy that Lipsey associates with better outcomes in his meta-analysis, as well as an example of how social protection and welfare systems and juvenile justice systems in Europe can constructively inter-relate in the interests of children.

The validity of a variety of models of foster care

It was both a challenge and a strength in the project that partner countries had contrasting perspectives and needs in relation to the development of foster care systems for young people in conflict with the law. What united them was an appreciation of the fundamental importance of the relationship between the young person and the carer. Our partners were well aware that there is a strong correlation between children who have suffered abuse and neglect, and children who offend, and in both cases relationships with warm, affectionate, trustworthy adults who can create and maintain reasonable boundaries will be a key feature in helping children to overcome early disadvantage. Relationships can evolve and come to fruition in different ways and in different models of foster care. As an expert wrote in England:

_Different approaches have been taken in response to this difficult challenge of balancing care, control and autonomy for young people with serious emotional and behavioural problems. Multi-dimensional treatment foster care (MTFC) offers a highly-structured model which sets very firm boundaries at the outset and gradually allows young people greater autonomy as they learn to positively manage their own behaviour. In contrast, some carers in the Fostering Adolescents study, recognising that teenagers unused to consistent, authoritative parenting would resist too many restrictions on their behaviour, began by imposing a few loose boundaries and then gradually established more as time progressed._

_Other studies suggest that the quality of relationships with foster carers may often affect young people’s willingness to accept attempts at boundary-setting. It is sometimes only within the context of a relationship with a particular carer that young people begin to respond to attempts to set boundaries (Triseliotis et al, 1995; Wade et al, 1998)…_

_Foster care for adolescents, as for younger children, should be viewed as an essential element in a continuum of services._

(Biehal, 2009, p 174)

Biehal argues that this integrated approach to policy and practice not only respects children’s rights, but also offers a way of preventing children from becoming more deeply enmeshed in the juvenile justice system.

**Key messages**

Our key messages emerging from this European overview are as listed below.
Alternatives to custody

1. The challenges of youth offending cannot be dealt with through the juvenile justice system alone. A first step to prevention is through an integrated approach to child rights and well-being in the education, health and social welfare systems. Reducing social inequality and preventing the marginalisation of particularly vulnerable groups must underpin a long-term vision of reducing youth offending.

2. Whilst existing international standards have dramatically increased opportunities for restorative justice, diversion and social re-integration, underlying attitudes and system inertia mean that custodial sentencing is still a preferred option across many countries (despite evidence-based studies making very clear that juvenile incarceration is ‘dangerous, ineffective, unnecessary, obsolete, wasteful, and inadequate’) (Mendel, 2011). A risk remains that such approaches are disguised under different names.

3. Wherever it is encountered, the split between child welfare/protection systems and juvenile justice systems can be a major barrier to introducing measures that can identify and address the root causes of offending behaviour. However, specialist foster care has the potential to provide the emotional stability and nurturing environment needed for young people to build their self-esteem and change behaviour. However, because the sectors follow different legislation, internal professional logic and training, the task of operationalising approaches that offer alternatives to custody is a considerable one.

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Eurochild is a network of more than 175 organisations and individuals from 32 countries working in and across Europe to promote the rights and well-being of children and young people. Eurochild's vision is of a society where children and young people grow up happy, healthy, confident and respected as individuals in their own right. Its work is underpinned by the principles enshrined in the United Nations Convention on the Rights of the Child.

IJJO, the International Juvenile Justice Observatory, was set up in 2002, because children and youth all over the world are in need of special care when they come into conflict with the law. The IJJO works for the rights of children and young people at risk of social exclusion, especially those in conflict with the law or caught in the cycles of violence and juvenile crime. The IJJO provides technical assistance, undertakes research and raises awareness and advocates for the rights of children in conflict with the law at a global level and at the regional one, through its Continental Councils for Juvenile Justice.
The needs of children in the youth justice system

There is a wide range of evidence that most children in the youth justice system in England come from backgrounds of disadvantage, impoverishment, deprivation and neglect, and are more likely than other children to have experienced abuse. Of course, not all disadvantaged children will offend but, as Goldson (2014, p. 42) states, ‘the corollaries between economic ruptures, social exclusion, poverty, youth crime and criminalisation are undeniable…’. The primary focus of the youth justice system on the offending or antisocial behaviour of these children, rather than their needs, can lead to the disproportionate criminalisation of particularly disadvantaged groups of young people while failing to address the difficulties they experience (although first-time entrants to the system have reduced in numbers since 2008).

Reducing problematic behaviour is essential, but a more holistic approach to these children is likely to be more appropriate in addressing the diversity of needs that may have contributed to their offending behaviour: the ‘difficult behaviour’ (of children and young people in the youth justice system) is a symptom but it clouds the issue of meeting mental health and emotional needs (Office of the Children’s Commissioner, 2011). While it is difficult to pinpoint a “cause” of offending behaviour, research has highlighted that children and young people in the youth justice system are more likely than children in the general population to have poor and disrupted educational experiences and special educational needs, and are at elevated risk for speech and language difficulties; they are also more likely to be involved in alcohol or substance misuse, to have unmet mental health needs, be at risk of self-harm, have higher than normal levels of depression and anxiety disorders, and to be diagnosed with attention deficit hyperactivity disorder (ADHD) (see, for example, Hagell, 2002; Hammersley et al, 2003; HM Inspectorate of Prisons, 2003; Gould and Payne, 2004; Arnull et al, 2005; Lipscombe, 2006; Harrington and Bailey, 2005; Ashford, 2007; Bryan et al, 2007; Blades et al, 2011; Fyson and Yates, 2011; Fox and Arnull, 2013). Children in the youth justice system experience higher than average levels of loss and bereavement, and have often experienced disrupted housing situations. A study by the Youth Justice Board (Ashford, 2007) found that three-quarters of children and young people in custody had lived with someone other than a parent and that 40 per cent had been homeless in the six months before entering custody. Children involved in offending behaviour are also more likely to experience negative peer relationships, inconsistent parenting, to witness or be subject to domestic violence, and to have relatives who have also been involved in offending. Perhaps as a result of these experiences, many children in the youth justice system have previously been in care and/or are or have been the subject of child protection plans.

It is not fully understood how or why combinations of such “risk factors” result in offending behaviour, but it is known that many of these are inter-related – for example, the risk factors
Alternatives to custody

Alternatives to custody associated with mental health problems and offending correlate and overlap, and those for youth offending are largely similar to those for educational under-achievement (see, for example, Youth Justice Board, 2005; Ashford, 2007; Khan, 2010). Many of these factors are exacerbated by individual and structural discrimination. For example, between a quarter and a third of young people in custody have a generalised learning disability; many young people with learning difficulties come from lower socio-economic backgrounds, which can further intensify the difficulties they experience, resulting in an over-representation within the youth justice system. Similarly, the over-representation of black and minority ethnic (BME) young people in custody may be exacerbated because there are also disproportionate numbers of BME males with mental health and learning disabilities.

Custody

Trends in custody rates

In addition to having the lowest age of criminal responsibility in Western Europe, England and Wales had, until late in the previous decade, higher rates of child imprisonment than most other countries in the region. After a large reduction in the numbers of children in custody in the 1980s, the early 1990s saw a sharp increase in the use of custodial sentences for young people in conflict with the law, due in part to a widespread perception that levels of youth offending were increasing, leading to a climate of penal populism and ‘punitive intolerance’ (Weijers, 1999; Muncie, 2004). Goldson (1997, p. 77) contends that the representation of children as violent and hardened criminals served to sanction subsequent policy and practice that rode ‘roughshod over the welfare needs of children and negates their claims to justice’. Then, as happens in the ‘continually shifting and contested terrain of juvenile justice’, a counter-reaction developed and policy shifted discernibly to a more child-centred approach from 2003 onwards (Drew, 2014), with the result that custody numbers stabilised and reduced. In early 2015, the average custodial population of under-18s was just under 1,000, having reduced from a peak of over 3,000 in 2008 (Figure 1). However, the average custody rate (the proportion of sentences passed in court that are custodial) has remained relatively static over the last decade, and was 6.6 per cent in 2013/14; furthermore, the average length of time spent in custody has increased from 85 days in 2012/13 to 90 days in 2013/14 (Ministry of Justice, 2015). The lack of change in the custody rate is more likely to reflect changes in the population of young people appearing before the courts – as early intervention and prevention programmes and diversionary schemes divert young people from the courts, those who do come before the courts may have a greater history of

2 This is in comparison with between two and four per cent in the general population (Hughes et al, 2012).

3 In its Study on Children’s Involvement in Judicial Proceedings: Contextual overview for the criminal justice phase – England, Wales and Northern Ireland, the European Commission (2013) refers to this as a concern that prompted the Commissioner for Human Rights of the Council of Europe to write in 2008: ‘Noting the very low age of criminal responsibility in the UK, the Commissioner recommends that the Government considerably increase the age of criminal responsibility to bring it in line with the rest of Europe, where the average age of criminal responsibility is 14 or 15.’ Regrettably, in the fifth periodic report to the UN Committee on the Rights of the Child: United Kingdom (HM Government, 2014), the position on this issue is unchanged.
offending and so receive harsher penalties (Ministry of Justice, 2013) – than punitive attitudes towards those receiving custodial sentences, though this factor cannot be excluded altogether. Allen (2011, p. 7) has noted: 'Troublingly, the fall in numbers in custody has not applied as much to black and minority ethnic children as to white', and the former continue to be over-represented within the youth secure estate.

Figure 1
Trends in young people in custody, 2003/04 to 2013/14

Concerns over the use of custody

Notwithstanding the reduction in the child custody population, the incarceration of children remains particularly concerning when their troubled and disadvantaged backgrounds are considered, and in light of the serious concerns repeatedly raised about custodial institutions for young people (Cavadino et al, 2013). Many commentators, including the Youth Justice Board itself (2010) (also Cavadino et al, 2013; Fox and Arnull, 2013) have questioned the effectiveness of imprisonment, noting that reoffending rates remain high, particularly for children and young people, who are often sentenced to custody when a community sentence or intervention would be more suitable.

Despite the positive work carried out by professionals within the youth justice system, it is highly questionable whether custodial institutions are the most appropriate place for addressing the needs of some of these children. The UNCRC (Article 37) includes a requirement to separate children from adults in detention, and recognises that the right to education, health care, family life and protection from harm all still apply. It is in this context that many serious breaches of children’s rights occur.

The welfare of the child can be overlooked, particularly within young offenders’ institutions (YOIs), due to the pressures of holding relatively large numbers of very troubled children together. Commentators have questioned the “child-centredness” of the juvenile custodial estate (Fox and Arnull, 2013), with Goldson and Coles (2005) describing the conditions within some secure establishments as amounting to ‘institutional child abuse’. While significant progress has been made in many areas, there are still worrying problems within the youth secure estate. For example, between 1990 and 2014, 32 young people under the age of 18
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died while in custody, 31 of whom committed suicide; boys in prison are 18 times more likely to commit suicide than those of the same age in the community (Justice Committee, 2013a). If those aged under 21 are included, these figures rise considerably. Alongside this, there were 1,318 incidents of self-harm; the number of such incidents per 100 young people has increased from 4.1 in 2010/11 to 6.6 in 2013/14. Official statistics reveal unacceptable rates of violence against children and young people in custody, including verbal, emotional, physical and sexual abuse (Drakeford and Butler, 2007; HM Inspectorate of Prisons and Youth Justice Board, 2013). For example, there were 2,932 assaults by young people in custody in 2013/14, reflecting a rise in the number of assaults per 100 young people from 10.1 in 2010/11 to 14.6 in 2013/14.

The use of restrictive physical intervention (RPI) is high in many secure establishments: while guidance states that RPIs should only be used as a last resort to prevent harm to the young person or others, there were 5,714 incidents of RPIs in the youth secure estate in 2013/14, with an increase per 100 young people from 20.5 in 2010/11 to 28.4 in 2013/14 (Ministry of Justice, 2015). Girls are at a higher risk of being restrained, as are children aged 10–14 (Ministry of Justice, 2013). The Criminal Justice and Courts Bill 2014 has included a proposal to allow the use of force against children in custody to enforce ‘good order and discipline’, a practice which courts have previously deemed to be in breach of Article 3 of the ECHR.

While acknowledging the existence of some areas of good practice in responding to children’s mental health needs, in 2011 the Office of the Children’s Commissioner highlighted a number of difficulties, in particular a lack of consistency in the type, level and quality of measures put in place to support the emotional well-being of children in the youth justice system and, specifically, in the children and young people’s secure estate. Variable commissioning arrangements have resulted in wide discrepancies in the understanding and recognition by staff of young people’s emotional well-being and mental health problems, and inconsistent levels of support and training in these areas for front-line staff. There is limited understanding of child and adolescent development, in particular developmental challenges, such as ADHD and autism.

Children and young people in the youth secure estate will often find that contact with friends and family is limited, especially as many young people are placed in institutions far away from their homes (Ministry of Justice, 2013). Their education may be disrupted as the educational provision in custodial institutions is limited. Despite a target of delivering 15 hours of education a week, on average, YOIs are only delivering 12 hours. An average of nine per cent of young people in custody are not in work, education, training or offending behaviour programmes (Howard League, 2014). There seems to be a current lack of commitment in enforcing legislation which ensures that local authorities take responsibility for the provision of education for children held in custody (Fox and Arnall, 2013).

Theory and practice both suggest custody itself can be criminogenic. Theories of differential association (Sutherland, 1947) argue that young people sentenced to custody will meet other, more experienced young offenders and potentially learn from them, learning different techniques, ways of avoiding being caught and how to “work the system”, as well as

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4 From 1990 to date there have been 272 deaths of children and young people aged 21 years old or younger in prison custody. Ninety per cent of these deaths have so far been classified as self-inflicted (Prison Reform Trust/INQUEST, 2012; Justice Committee, 2013b).
developing anti-authority attitudes (Howard League, 1998). Labelling theory (Becker, 1963) demonstrates how being sentenced to custody can be stigmatising, and often has negative consequences for young people seeking employment and accommodation once they have been released. As a result, over two-thirds (67.9%) of young people relinquished from custody re-offend within a year of their release, compared with 63.5 per cent of those who receive a YRO and 42.5 per cent of those who received other community sentences (Ministry of Justice, 2015). Recent analysis by the Ministry of Justice (2013) found that, controlling for relevant factors, children placed in custody for 6–12 months were more likely to reoffend than a matched control group given a community sentence.

**Alternatives to custody: the legislative and policy context**

It is important for interventions that divert from custody to be available to those sentencing young people, to protect them from the potentially harmful impact of custody, to reduce recidivism and to ensure adherence to domestic and international legislation. For instance, Article 37 of the UNCRC emphasises the need to provide a range of disposals for children involved in offending behaviour, including care, probation, guidance, foster care, educational and vocational training, and that detention must be a measure of last resort and for the shortest appropriate period of time. It is important to note that within the context of the UNCRC, “last resort” should be interpreted as there being an unavoidable imperative (such as to confirm the identity of a child or young person or to prevent harm to the child or others), not that there are no other alternatives. Article 40(4) of the UNCRC states that:

*A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence. [emphasis added]*

Furthermore, within England and Wales, all legal responses to youth offending should be underpinned by the “welfare principle” enacted in section 44(1) of the Children and Young Persons Act 1933:

*Every court in dealing with a child or young person who is brought before it, either as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.*

The welfare principle clearly establishes a legal standard that all youth justice interventions should adhere to, based on the recognition that all children, including those who offend, may be vulnerable and are still developing, and that the state, as the guardian of its citizens, has a paternalistic duty towards children (Pickford and Dugmore, 2012). This welfare-based approach was re-emphasised in the Children Act 1989 (section 1, ‘The child’s welfare shall be the court’s paramount consideration’) and the Children Act 2004, which stipulates that Youth Offending Teams (YOTs) have a statutory duty to make arrangements for ensuring that ‘their functions are discharged having regard to the need to safeguard and promote the welfare of children’.
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The welfare principle is reflected within the Sentencing Guidelines Council’s (2009) Guidelines on the Sentencing of Youths. These highlight that:

- A custodial sentence must be imposed only as a ‘measure of last resort’, that the custody threshold is higher in the case of a child than in the case of an adult, and that it is clear that Parliament expects custodial sentences to be imposed only rarely on those aged 14 or less.
- The obligation to have regard to the welfare of the offender requires a court to take account of a wide range of issues, including those relating to mental health, capability and maturity, and that they must be alert to welfare needs and the vulnerability of children to self-harm, particularly within a custodial environment.

However, as Rob Allen commented in 2011 (p. 3):

... it is not the case that reducing custody has been a deliberate or overt policy objective in central government. Rather, a range of dynamics behind the scenes have worked together to reduce the number of children appearing before the courts, reducing the proportion of these children who are sentenced to custody.

This range of dynamics includes:

- Pressure from the Youth Justice Board to reduce the number of children and young people in custody for a range of reasons, including financial imperatives but also the need to reduce recidivism rates. A survey undertaken by the Prison Reform Trust’s Out of Trouble programme found that nine out of ten respondent YOT managers agreed that the Youth Justice Board was putting pressure on YOTs to work on reducing numbers in custody and this was much more apparent than pressure from any other source;
- International pressures: the UNCRC concluded in 2008 that ‘the number of children deprived of liberty is high, which indicates that detention is not always applied as a measure of last resort’ (Article 44, para 77(c)). The Committee recommended the development of a broad range of alternative measures to detention for children in conflict with the law, and establishing in statute the principle that detention should be used as a measure of last resort and for the shortest period of time.

These pressures have led to the development of new diversionary methods, such as Youth Restorative Disposals, Youth Cautions and Youth Conditional Cautions, and increased police discretion (enacted in the Legal Aid, Sentencing and Punishment of Offenders Act 2012), which have resulted in a significant reduction in the number of first-time entrants to the youth justice system – with a knock-on effect on the numbers of children being sentenced in court. Extending the range of pre-court options both increases the opportunity for children to turn away from crime and dilutes the criminal history that courts have to consider if they eventually come to be sentenced. There has been growing ownership among professionals (police, the Crown Prosecution Service and YOTs) of the removal and replacement of the Offences Brought to Justice targets which, until 2008, had seen an increasing number of children being drawn into the youth justice system for relatively minor offences. As a result of these changes, the number of first-time entrants to the youth justice system has reduced by 51 per cent since 2010/11 and 75 per cent since 2003/04.

Fuller use is being made of non-custodial options that are available through amendments to legislation and practice, such as restorative justice interventions and alternatives to custody like the Youth Rehabilitation Order (YRO) with Intensive Supervision and Surveillance (ISS) or YROs with intensive fostering. Foster care for children on remand is also available as a remand
to local authority accommodation in some areas, and intensive fostering can be a condition of the community licence period of the Detention and Training Order under a Notice of Supervision. Courts are required to actively consider a YRO with ISS or intensive fostering in cases where a custodial sentence is a possibility, and if a custodial sentence is passed, the court must state why a YRO with an ISS or intensive fostering provision is not appropriate.

**Remand foster care**

Part of the role of the YOT is to reduce the likelihood of bail being refused through the provision of services that can address the objections to bail; the Crime and Disorder Act 1998 details the services to be provided/co-ordinated by YOTs, including support for children and young people on remand and overseeing remand placements in local authority accommodation, which can include foster care. While court hearings involving children and young people are meant to be conducted in an expeditious manner, the remand period may last from a week to six months or more, with the average length spent on remand in custody being 45 days (Ministry of Justice, 2015). Some young people may spend much longer on remand, particularly if they are being tried alongside an adult offender. The magistrates' decision will therefore have significant consequences for the young person, not only in terms of future decisions made within the justice process, but also in terms of the influences exerted upon the young person while they are on remand.

**Intensive fostering**

Intensive fostering was introduced in the Criminal Justice and Immigration Act 2008 as an alternative to custody and can form part of a YRO for young people ‘whose home life is felt to have contributed significantly to their offending behaviour’ (Youth Justice Board, 2010a, p. 84, cited in Fox and Arnall, 2013). A YRO with ISS or an intensive fostering requirement must be for a minimum of six months but the young person can remain in an intensive fostering placement for up to 12 months; a programme of support can simultaneously be offered to their family, including family therapy, counselling and parenting skills. Intensive fostering placements are based on the highly-structured Multi-dimensional Treatment Foster Care (MTFC) model that originated in Oregon in the 1980s (Fisher and Chamberlain, 2000).

**Devolving custody budgets**

The use of remand foster care and intensive fostering is currently limited, partly due to financial constraints and the lack of available foster placements. It can be argued that the future of specialist fostering schemes is dependent on local authority commissioners having the necessary funding and incentives to invest on a substantial scale to ensure that appropriate placements are available as and when necessary. To make significant progress in

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5 Being remanded to custody can increase the likelihood of being found guilty and receiving a custodial sentence, although there is disagreement as to why (Winfield, 1984). This may be related to the preparation of a legal defence, the appearance in court via video-link or under escort by prison officials, or presumptions made by the judiciary – the assumption of guilt because a remand to youth detention was deemed necessary or because the primary decision was based on the grounds that there was a “realistic prospect” of receiving a custodial sentence.
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Maintaining and developing fostering schemes, the devolution of custody budgets to local authorities needs to take place, as has already occurred with remand budgets. The commissioning of fostering schemes could usefully be placed in the hands of regional consortia, based on pooled budgets with long-term agreements between local authority participants. Such a structure could also have the positive effect of overcoming the unhelpful split between welfare and youth justice in children’s services. Spending on both custody and community-based alternatives needs to operate together and in a way that does not perversely incentivise local authorities to stand passively by while the cost of custody is met elsewhere from central funds.

A successful process of devolution of custody budgets to local authorities will require them to have suitable services in place first. Therefore it would be necessary to phase in such a budgetary devolution, first giving local authorities both the opportunity and the financial incentive to develop and pilot new fostering services as alternatives to custody before custody budgets are devolved to them. Once devolved, the funds need to be ring-fenced to enable local authorities, already working within severe financial constraints, to resist the almost inevitable pressure to divert this devolved funding to staunch other demands, such as safeguarding or meeting the demands to intervene with younger children at risk.

However, in the context of further potential significant public sector cuts to government departments and local authorities, there are likely to be various challenges and complications regarding the development of a coherent strategic position on devolving custody budgets. Furthermore, the Youth Justice Board is tapering the funding of the intensive fostering pilot sites, over concerns about their future sustainability, with a view to these schemes becoming entirely locally funded. These pilot sites have experienced significant challenges in terms of developing sustainable provision, increasing demand and supply, and also in securing local authority ownership and commitment to the schemes.

Policy challenges within England

In addition to uncertainty about the devolution of custody and remand budgets to local authorities and potential financial constraints, the development of foster care as an alternative to custodial remands and/or sentences faces additional policy challenges. For example, it is imperative that an explicit renewal/confirmation of adherence to child-friendly justice is embedded and sustained within legislation and policy, and that there is a visible and effective commitment to programmes of “local” English initiatives that promote this agenda. Alongside this, there needs to be resolute policy encouragement for developing new schemes for foster care, for purposes of assessment, avoidance of homelessness, to facilitate treatment and to provide an alternative to custody for children and young people at risk of custody due to the level and nature of their offending behaviour.

Remand foster care and intensive fostering are potentially anomalous concepts: foster care is traditionally seen as a welfare-based model of caring for children, yet it is being used within a controlling criminal justice system. Its position on the care-control continuum is far from clear, either in policy or in practice, as the task of fostering children and young people in the justice system is complex: foster carers have to bridge the divide between providing the care of the welfare system and the control of the criminal justice system. The particular characteristics of the foster placement, such as its length, are understandably determined
more to suit the demands of proportionality and the criminal justice process than to meet the needs of the defendant. These tensions are reflected in the structural problems within the system, which need to be addressed.

The current structure of the English legal system, with youth courts dealing with criminal proceedings and the family courts managing welfare proceedings, creates an artificial divide between “troublesome” and “troubled” children. This leads to separate, differentiated legal responses to children who, more often than not, are experiencing similar needs and difficulties. Greater integration between child welfare proceedings and youth justice hearings, with a more fluid membrane between the two court processes, could allow a child prosecuted in the Youth Court to be referred to the Family Court, recognising that, in order to break the cycle of offending, juvenile antisocial behaviour should be seen, first and foremost, as a child welfare issue (Bates and Swan, 2014; Independent Parliamentarians’ Inquiry into the Operation and Effectiveness of the Youth Court, 2014).

The unhelpful divisions between social care and YOT practice are echoed at governmental level, with social care provision for children in need being managed by the Department for Education (DfE) and the work of YOTs and the Youth Justice Board being overseen by the Ministry of Justice. The recent Independent Parliamentarians’ Inquiry into the Operation and Effectiveness of the Youth Court (2014) states that many submissions noted that the multi-agency nature of YOTs has been eroded in recent years, with ‘few YOTs’ now including secondees from children’s services and wide variation in secondments from education and health. The separate development of youth justice as distinct from broader local authority and other children’s services has led to a wider gap between the two than some of the architects of the YOT/Youth Justice Board set-up might have envisaged or desired when it was established in 1998 – though some new links are being made at local level under pressure of budget cuts. These structural problems might be best addressed through the development of regional consortia, discussed above.

### Research evidence for foster care

The high levels of recidivism post-custody indicate that, at least as they are currently configured, custodial sentences are ineffective in rehabilitating children and young people. In addition, evidence suggests that incarceration disrupts the normal growth and development of the child and can exacerbate involvement in criminal activity through a variety of mechanisms, including labelling and differential association (Becker, 1963; Lemert, 1967; Rutherford, 1986; Stein and Carey, 1986; Malek, 1993; Giller, 1999; Smith and McVie, 2003). As Malek (1993, p. 91) argues, many young people do not benefit from the time they spend in institutions:

> At best their time in institutions serves to contain them. At worst it intensifies and adds to their difficulties and denies them the experience of mainstream society to which they are expected to return. The cost to these young people and to society is huge in financial as well as emotional and human terms.

Conversely, evidence shows that the most effective resources for coping with and resolving youth crime are located in the home and school, not in custodial institutions. There is a growing body of research on the effectiveness of treatment programmes and interventions
for children and young people who offend. For example, in summarising the findings of comprehensive meta-analyses of interventions with young offenders undertaken in the United States (Altschuler and Armstrong, 1984; Howell, 1995), Pitts (2003) concluded that successful rehabilitative programmes:

- are often conducted outside the justice system;
- are holistic, dealing with many aspects of young people’s lives simultaneously, as needed;
- are informed by an underlying developmental rationale;
- offer diverse opportunities for success and the development of positive self-image;
- build on young people’s strengths rather than focusing on their deficiencies;
- are intensive, often involving weekly or even daily contact;
- adopt a socially grounded rather than a “treatment” approach and emphasise reintegration;
- involve young people in programme planning and decision-making;
- include enriched educational and vocational programmes;
- utilise forms of counselling matched to the young person’s needs, including opportunities for them to discuss childhood problems;
- provide opportunities for the development of links between young people in trouble and pro-social adults and institutions;
- give frequent, timely and accurate feedback for both positive and negative behaviour;
- demonstrate clear and consistent consequences for misconduct;
- provide a forum in which young people are enabled to recognise and understand thought processes that rationalise negative behaviour;
- offer opportunities to engage with problems and deficits that contributed to the young person’s offending behaviour.

Community-based alternatives to custody, particularly specialist foster care, are based on such principles and therefore may have more rehabilitative impact than custodial interventions.

Similarly, Lipsey’s comprehensive meta-analysis of the effects of offending interventions – consisting of 548 studies that spanned the period 1958–2002 based on research conducted in English-speaking countries and reported in English – found that one important component of positive outcomes concerned the overarching “philosophy” of the intervention (Lipsey et al., 2010). Lipsey identified two broad philosophies, the first of which featured external control techniques for suppressing delinquency and included three categories:

- programmes oriented toward instilling discipline (e.g. paramilitary regimens in boot camps);
- programmes aimed at deterrence through fear of the consequences of bad behaviour (e.g. prison visitation programmes such as Scared Straight);
- programmes emphasising surveillance to detect bad behaviour (e.g. intensive probation or parole supervision).

The contrasting philosophy, however, involves attempts to bring about changes in behaviour by facilitating personal development through improved skills, relationships, insight and understanding. This therapeutic approach included the following categories of programmes:

- restorative (e.g. restitution, victim–offender mediation);
- skill building (e.g. cognitive-behavioural techniques, social skills, academic and vocational skill building);
- counselling (individual, group and/or family counselling; mentoring);
- multiple co-ordinated services (e.g. case management and service brokering).
When the mean effects on reoffending rates were compared for the programmes associated with these two broad approaches, the programmes with a therapeutic philosophy were notably more effective than those emphasising control. The ethos of specialised foster care for children and young people in conflict with the law is a clear example of the contrasting philosophy associated with better outcomes in Lipsey’s meta-analysis, as well as an example of how social protection and welfare systems and juvenile justice systems in Europe can constructively inter-relate in the interests of children.

As McAra (2014) argues, criminal justice systems have a somewhat pernicious tendency to construct and reproduce their own client group by labelling, stigmatising and alienating children and young people. A central theme of child-friendly justice is the enabling of children to experience the youth justice system as positively concerned with their rights and needs, thereby enhancing the citizenship of young people who come into conflict with the law. McAra highlights how desistence from offending and antisocial behaviour is a process that can take place over a period of years and which can be promoted by transformations in key relationships, with those desisting from offending experiencing less conflict with parents/caregivers and peers. Taken as a whole, McAra’s findings indicate that the context of desistance is one in which the young person perceives themselves to have greater control over their capacity to negotiate and build key relationships in a positive and sustained way, and one in which many of the core vulnerabilities strongly linked to serious offending are diminished – a context that specialist foster care can successfully provide.

The attractions of fostering as an option for responding to offending behaviour

As noted, there is a significant overlap between children who have suffered abuse and neglect and those who offend. In this context, relationships between children and warm, affectionate and trustworthy adults, who can impose and implement reasonable boundaries, are a key feature in helping young people to overcome early disadvantage. While some experiences of care can exacerbate offending behaviour, positive experiences of foster care can also reduce the risk of offending (Rees Centre Seminar, 2014). There is evidence of promising results from a number of specialist fostering schemes (designed either as diversions from or alternatives to custody), proving that positive experiences of foster care can improve life chances, reduce the risk of reoffending and also offer financial savings. Such outcomes are not only better for the child, they are also highly desirable outcomes for his or her community and wider society.

For example, the Youth Justice Board’s (2010) report on the intensive fostering pilot programme summarised longitudinal research into intensive fostering conducted by the University of York, the London School of Economics and the University of Manchester, with the overall conclusion that intensive fostering may be a better alternative to custody and should continue to be implemented. The strengths of specialist foster care for children in conflict with the law include many of the factors identified by Pitts (2003) and Lipsey and colleagues (2010). For example:

- promoting positive, supportive relationships within the fostering household;
- facilitating engagement in education, training or employment opportunities;
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- including elements of reparation, restitution and reintegration through involvement within community activities;
- working with the young person’s family to achieve lasting change;
- reducing the impact of labelling and stigmatisation.

Internal reviews conducted by specialist foster care schemes, such as the Action for Children Wessex Fostering Prevention of Offending Project, highlight their strengths and the benefits of specialist foster care for children in conflict with the law. This project provides a range of placements for young people on remand; those at risk of offending/reoffending and who have been assessed as vulnerable; children and young people serving the community phase of a custodial sentence; and emergency overnight placements for young people under the Police and Criminal Evidence Act 1984. Their own figures indicate that, from April 2012 to March 2013, 83 per cent of the children and young people in these specialist fostering placements reduced their offending behaviour, 63 per cent of those placed did not offend while in placement, and only nine per cent received a custodial sentence at the end of their remand/post-custody placement. Similar findings have emerged from independent research into both remand foster care (Lipscombe, 2006) and MTFC (Biehal et al, 2012).

Challenges faced by fostering schemes

Specialist fostering schemes for children in conflict with the law have to overcome a number of challenges, including securing an appropriate volume of referrals, recruiting and retaining foster carers, and demonstrating the impact on reoffending and value for money.

To provide a viable alternative to custody, sufficient specialist fostering placements need to be available to ensure that all children and young people for whom such a placement is appropriate can be placed. However, a recent review of the youth justice system found evidence that specialist or intensive fostering provision was ‘more often than not absent’ because of local resource constraints (Independent Parliamentarians’ Inquiry into the Operation and Effectiveness of the Youth Court, 2014). If placements are not available, there is a risk that the judiciary and others making placement decisions will lose sight of specialist fostering as an alternative to consider. Schemes need to achieve a critical mass, such that they are economically viable and can be maintained. The provision of sufficient placements is also important to enable matching of the needs/characteristics of children and young people with specific carers’ styles and households, to improve placement stability and enhance the success of the placements (Lipscombe, 2006).

Due to the nature of the youth justice system and fluctuations in sentencing patterns, the demand for specialist foster placements can be variable. Caution needs to be employed to ensure that placements that are temporarily unfilled by children requiring a placement as an alternative to custody are not used for others who do not meet the same criteria. In many schemes, foster carers are only paid if they have a child placed with them and the demand for general foster placements means that pressure may be exerted on carers to provide placements for children who are identified as being at risk of offending behaviour but who do not meet the criteria for a custodial sentence. This can lead to two difficulties: firstly, that placements are then not available when needed for a child facing a custodial sentence; and secondly, the potential harm caused by labelling a child as being “at risk” and drawing them
into the youth justice system. Accurate and early identification of children “at risk” of involvement in offending behaviour is difficult; labelling a child in this way can create a self-fulfilling prophecy, whereby the child’s behaviour is exacerbated through contact with youth justice agencies. The latter issue highlights the key tensions between providing a holistic intervention necessary to meet the needs of the child while maximising diversion from custody. In all instances, children must only be removed from their parents’ care for their necessary care and protection and not as a punishment to either the child or their parents (Mellon, 2010).

Recruiting and retaining foster carers

Providing sufficient placements is partly contingent on recruiting foster carers and supplying the support and training necessary to attract and retain those who become carers. In a recent national survey of over 2,300 foster carers, three key findings relating to why foster carers choose to work for a particular agency were identified (Fostering Network, 2013). The first consideration – and most significant for all potential foster carers – was the level of support the agency would be able to provide. People drawn to foster care recognise that although they have life skills, they will probably have to manage situations beyond their current experience and draw on resources outside of themselves. The agency “brand”, its values and how this is linked to the “public good” was the second significant consideration in choosing a particular agency, with potential carers identifying with agencies that shared their own value base. The third consideration was related to what they had heard from other people about the agency and providing specialist foster care. There are a number of fears and misconceptions about fostering, which can present a significant barrier to recruiting foster carers; these fears can be addressed by presenting realistic information about the children and young people in need of placement through continual marketing campaigns and specific approaches, such as explaining and emphasising the provision of clear structures, training, support and expectations for foster placements.

Information also needs to be provided to address the stigma that may be associated with young people being in conflict with the law. Children who have committed criminal offences may be categorised as “unmanageable” and therefore undesirable in terms of placement choice; this may be compounded by stereotypes of particular ethnic groups or concerns about providing placements for girls because of the perceived risk of allegations and self-harm (Lipscombe, 2006). During the focus groups, foster carers providing care to young people on remand or at risk of offending explained the prevailing view among their peers that these young people presented such difficulty and moreover risk to them and their families that they could not provide for their needs. This is not helped by terminology such as “remand” and “youth offender”, which automatically trigger fear and other negative responses. However, it is difficult to identify an alternative term and the label attached is often necessary to identify the target group of young people and thereby receive funding. Specialist foster carers’ experiences suggest that the services and programmes developed for supporting children in conflict with the law in placements can result in them actually being more straightforward to care for. Boundaries are often clearer as they are defined by the courts (through curfews, non-association orders, and so forth) rather than the carers, and the use of a points system for reward/punishment is helpful because it displaces some of the
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burden of discipline away from foster carers and onto the “system” (Daphne Study Tour, 2013; Rees Centre Seminar, 2014). Information provided to potential foster carers needs to emphasise these latter points over and above the label of “offender”.

Recruitment campaigns that target those with knowledge of social care and/or the criminal justice system can be effective, as they may have relevant understanding and knowledge of supporting children who are in conflict with the law. A background or qualification in social care can assist in the specific tasks relating to specialist fostering, but experiences of the criminal justice system may be equally valid (London Focus Groups and participants in the Study Tour). Messages from research and a review of literature relating to the recruitment of foster carers support this, noting that ‘carers with more resources and those in the helping professions may be most willing to foster children with emotional/behavioural problems’ (Shuker, 2012).

Training

Providing adequate training and support is crucial to recruiting foster carers and not just those who do not have prior experience of fostering, social care or the law. In England it is common practice to involve current foster carers in the preparation training for foster carers so that prospective carers learn about the tasks relating to fostering and the agency from those who experience it. Opportunities to do so in relation to specialist fostering schemes for children in conflict with the law are not common within generic preparation groups but, just as with the increasing mainstream consideration of children with disabilities, this would present an opportunity for more positive perspectives to be gained.

Alongside mainstream training, foster carers providing placements for children in conflict with the law need to receive specific training on:

- youth offending and the youth justice system;
- the factors that may contribute to youth offending;
- understanding key roles such as the “appropriate adult” in police stations;
- legal jargon and terminology, including the range of orders and requirements courts can impose;
- court processes and procedures, and the roles of key personnel in court hearings, such as magistrates/district judges, solicitors for the prosecution and defence, representatives of YOTs and children’s services, birth parents and foster carers themselves;
- foster carers’ views and attitudes to youth crime.

In addition, if not included within the mainstream provision, carers may need training on anger management, dealing with self-harm, substance misuse and working with the young person’s family. Training should also outline mechanisms to access different sources of support that may be available for the carer and the young person placed, and help to negotiate the expectations of all parties involved in the placement.

It is also imperative that training and support are provided for the main foster carers’ immediate family members. Recent changes to fostering legislation in England state that the home that fosters is a “fostering household” and as such, all family members need to receive support and training.
Specific support

The importance of effective networks of formal and informal support have been widely recognised as essential to the success of fostering schemes, both in terms of placement stability and also regarding foster carer recruitment and retention (Farmer et al., 2004). If benefits from the fostering interventions are to be successfully maintained, all specialist fostering schemes for children in conflict with the law need to be integrated within the wider system of children’s provision and interventions and post-placement support (Staines, 2014). There is a need for easily accessible “routine” support throughout the life of the placement, whether it is with regard to the young person’s behaviour, education, health, well-being, substance misuse, or family or peer relationships. Foster carers should be encouraged to advocate for young people to receive better services without fear of being “punished” as a result (for example, through information not being shared) but also need to be supported in doing so. It is essential that access to professional support (e.g. psychologists, counsellors or therapists) could usefully be made available to foster carers themselves at moments of crisis such as placement breakdown, even if young people do not want to use those services themselves (Farmer et al., 2004).

A particular challenge faced by specialist fostering schemes for children who have offended is the provision of follow-on foster placements and support at the end of the time spent in the specialist placement. The aim of MTFC (Biehal et al., 2012) was to move to a long-term foster family, but a shortage of carers meant that this was not achieved in three-quarters of placements. This mirrors a similar lack of carers willing to take on young people with challenging behaviour from residential placements. Post-placement support is crucial to maintain the progress achieved during the placement and it is imperative that appropriate move-on accommodation and support are provided after every one (Lipscombe, 2006). The transition process is a period of high risk and anxiety for many children and young people in care, particularly for those who have endured damaging transitions in the past; move-on plans need to be a constant priority for all time-limited placements, to ensure that the transition is negotiated as smoothly as possible for the young person concerned.

Demonstrating impact and value for money

In order to become self-sustaining and viable alternatives for children in conflict with the law, specialist fostering schemes need to be able to demonstrate their impact and value for money. If cost is calculated on a daily rate, the unit cost of specialist fostering placements tends to be lower than that for custodial facilities, although fostering placements usually last longer and are therefore more expensive. However, measuring the impact of foster placements to assess their value for money is difficult: the “success” or “failure” (themselves both value-laden terms) of a placement will depend upon which criteria are used to assess the placement and whose perspective is being considered. The judiciary, the police, the general public, foster carers, parents and the young person may all have different expectations of a specialist foster placement and their opinion of its relative success will vary according to those expectations. Demonstrating the impact of specialist fostering placements on targets such as reoffending rates is difficult given the small numbers of children and young people placed, but also because it is hard to identify which of many factors may have been influential in affecting recidivism. Also, the fostering schemes are often not in control of what happens once the placement ends; some improvements made during the placement
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may not be sustained afterwards, particularly where appropriate support and/or accommodation are not available. Furthermore, the true influence of the placements on a young person’s behaviour may not be apparent until later in their lives but it is difficult to measure and collate these data. Outcome judgements will thus vary depending on the time at which the assessment was made – during the placement, at its conclusion, or at a point in time after the placement has ended.

The outcomes of any intervention for a young person are also multi-dimensional, being neither wholly positive nor entirely negative, and it is often a matter of balancing the “benefits” and “losses” across a number of elements, including family relationships; engagement with education, training or employment; mental health and well-being; and behaviour. Moreover, in evaluating outcomes, the severity of initial difficulties and the subsequent degree of change need to be considered (Triseliotis et al, 1995). For instance, a young person who was previously involved in persistent offending may not cease offending completely, but the placement could be considered beneficial if the frequency or severity of his or her offending behaviour decreased during it or afterwards.

The difficulties in demonstrating value for money present challenges for securing funding and the long-term sustainability of specialist fostering projects. However, within a framework of meeting children’s needs and upholding children’s rights, the benefits of fostering placements tend to outweigh the financial cost involved.

The way forward

There is substantial evidence to show that specialist foster care can provide a direct alternative to custody, being less damaging and less intrusive than periods of incarceration. However, those coming into care are at risk of being stigmatised in the everyday cultural and social assumptions that are made. While in some regions, such as Scandinavia, the provision of alternative care for children is seen as part of a service response to a family’s needs, in England coming into care is perceived as a clear recognition of failure, with the concomitant risks of labelling and stigmatisation. Fostering placements need to be seen less as conferring stigma and more as part of a comprehensive service delivery system supporting families and enhancing children’s well-being, in line with Gilbert’s (2012) identification of a “family service” approach within child welfare that emphasises the state’s role in promoting the development of children.

In order to increase the number of children who receive the beneficial interventions that have been identified above, and to build on and extend the strengths of specialist fostering placements, it is essential that schemes become sustainable. This is likely to necessitate a move away from financial cost-benefit considerations to the explicit commitment to an approach that upholds both international and domestic legislation that states that custody should only be used as a last resort, and that supports practice to ensure foster placements are available. Merely including specialist foster care as an option within legislation is not sufficient to ensure compliance with the UNCRC; it must also be available in practice. This would constitute a significant sea change and would need central government to make specific funding commitments at a time of continuing severe public spending constraint.
The structural difficulties outlined above also need to be addressed, to facilitate the development of effective specialist fostering schemes for children in conflict with the law.

As the Independent Parliamentarians’ Inquiry (2014) recommended, and given that children involved in offending behaviour and those who are in the child protection system are a similar and overlapping population, their problems could, and should, be responded to within the same jurisdiction. This would require an innovative change in the court structure, which may not be easily achievable; as an interim measure there have been calls for greater integration between child welfare proceedings and youth justice hearings with, for example, the flexibility to refer cases prosecuted in the Youth Court to the Family Court so that welfare needs can be addressed. Training district judges and magistrates to sit both in the Youth Court and the Family Court could bring the court systems closer together (Independent Parliamentarians’ Inquiry into the Operation and Effectiveness of the Youth Court, 2014). Specialist fostering could become the natural service interface between the two separate jurisdictions, providing a holistic, non-adversarial response to youth offending and the range of different problems families involved in either court system may face.

Requiring local authorities to work within regional consortia (e.g. with annually renewable, rolling three-year commitments) would encourage transparency and mutual planning to develop fostering services that can adequately provide for anticipated likely levels of need. A requirement to produce a fostering plan could be linked to funding.

In conclusion, there is a need for effectiveness of working together between the judicial and welfare systems, incorporating a strategic approach between the police, the Crown Prosecution Service and care providers. In wanting to explore intensive and remand fostering, there is an issue of ensuring adequate funding and providing other necessary resources. Increasing diversion screening for mental health concerns should lead to greater positive outcomes.

Government and public commitment is essential to the delivery of sustainable specialist fostering schemes; in order to achieve such commitment, the wider societal benefits that will be derived from specialist fostering need to be emphatically publicised. Such benefits include optimising children’s development and attainment and, by reducing/ending their conflict with the law, would have benefits not only for potential victims but also for wider society.

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DEVELOPING FOSTER CARE: WHAT NEEDS TO CHANGE AND WHAT IS NEEDED TO ACHIEVE IT
A POLICY OVERVIEW – ITALY

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Introduction

The history of Italian child welfare shows that solutions have been based traditionally on the support provided by both institutions and families. For a long time, placement in an institutional setting was considered the ideal solution for children in care but the implementation of Law 184/1983 altered that situation by promoting new forms of family care and residential educational facilities. The child protection system was challenged to overhaul policies based on charitable contributions and institutional provision, and provide more family-based care. There is no question that child protection in Italy (including the justice system for young people in conflict with the law) has changed a great deal. However, the difficulties in moving from ideal models of foster care to different “real-life” forms, tailored to the needs and problems of individuals and families, are still reflected today in the discrepancies between the framework envisaged by the law and its actual implementation, resulting in very diverse outcomes. In this chapter, therefore, we take stock of the present situation but do not dwell on historical, sociological or statistical analysis.

We proceed in five steps:

1. We provide a brief summary of the legislative framework in Italy together with a systematic and dynamic interpretation of this legal context, i.e. one that follows the spirit, rather than the letter, of the law.

2. We look at statistical trends in foster care since the introduction of Law 184/1983.

3. We apply the perspective of caregiving as an “ecosystem” and draw on the Secure Base model (Schofield and Beek, 2014b) to show how the care system can be improved.

4. We introduce two practice models – “mild adoption”, 1 already piloted in one region of Italy, and a “clinical-practical” model of learning – as tools to promote the further development of forms of foster care that are efficient and respectful of everyone concerned.

5. We finally comment on opportunities and obstacles arising from an increased use of foster care for young people in conflict with the law.

The legal framework in Italy

Relevant legal frameworks

The legal framework in Italy is divided into civil and criminal law.

Foster care is regulated by the following civil law:

1. Civil Code Book One (Royal Decree of 1942):

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1 This model is broadly similar to England’s special guardianship system, which provides legal security for children who cannot be cared for in the long term by their birth parents. As with an adoption order, special guardians have parental responsibility for the child but the child retains a legal link to his or her parents (for more information, see BAAF, 2009).
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2. **Law 184/1983**, which determines the organic framework of foster care (Articles 1–5 and Articles 71 and 80) and regulates special adoption and international adoption. Article 2 (para 1) has particular legal relevance as it states that:

   *The child temporarily deprived of a suitable family environment, despite the interventions of support and help arranged pursuant to Article 1, is assigned to a family, preferably with minor children, or a single person, able to assure the maintenance, education and relationships which he needs.*

3. **Law 149/2001**, which amends Law 184/1983 and the Civil Code Book One. It also sets out the measures that allow a full recognition of the child's right to have his or her own family and adds recommendations for professionals and judges regarding how to pay due attention to managing relationships with children and birth parents. Foster families and professionals are involved, included and consulted in the decision-making process.

4. **DM (Ministerial Decree) 308/2001**, which establishes the requirements of residential and semi-residential services and facilities.

Foster care in Italy is also regulated by the following **criminal law**:

1. **RD (Royal Decree) 1404/1934**, which establishes the Juvenile Court, a specialised judicial body that deals with the criminal justice system, relationships between parents and children, and young people in conflict with the law. This outlines the tripartite division of the competence of the Juvenile Court in criminal, civil and administrative fields that we still have today.

2. **RD 1398/1930 and RD 1399/1930**, which put in place, with reference to children, the institutions of the judicial pardon, diminished responsibility and probation.


4. **Law 888/1956**, which fundamentally reforms the accountability for the so-called “re-education” of children considered “irregular”, both in conduct and in personality. The changes focused on a double order of measures: custody of the social services by the Ministry of Justice (established in 1962 with L. 1085) and placement in “re-education houses”.

5. **DPR (Presidential Decree) 448/1988**, which substantially changes the juvenile justice system by considering the child as a “person who owns rights” and by unequivocally putting the educational needs of juveniles before the punitive claims of the state.
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Finally, the regulation of foster care is also governed by the following international law:  

1. Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), approved by the Sixth Congress of the UN in 1985. This document is the international source to which modern juvenile criminal procedure codes (such as DPR 448/1988) owe their inspiration.


4. Guidelines for the Alternative Care of Children (United Nations, 2009), which highlight two basic principles for policy intervention – necessity and suitability (Cantwell et al, 2012, pp 49–65): the needs of children to remain with their family of origin; and the appropriateness of alternative care arrangements for the child if it is not possible for him or her to stay with their birth family.

5. Guidelines on Child-friendly Justice (Council of Europe, 2010), which, in respect of the right of every person to have access to justice and to a fair trial, consider the specific needs of the child when it is part of the process.

Accordingly, the provision of foster care in Italy is configured as:

- a form of intervention and support for a family in need;
- aiming at the reunification of the child with his or her family of origin;
- consensual or judicial – in the first case, the family of origin agrees, the foster care placement is arranged by local social services, the probate judge authorises the foster care plan and specifies the duration; in the second case, foster care is coercively ordered by the Juvenile Court;
- giving the foster family responsibility for child care (support, educational and affective needs).

As a form of intervention, foster care is:

- temporary (maximum duration of two years), ending when the family of origin resolves their temporary difficulties or substitute care is no longer legally required, e.g. when criminal remand expires;
- extendable, though this needs to be for specifically agreed time periods;
- constantly monitored by local social services (with support programmes and supervision).

The main stakeholders involved in foster care are:

- children and young people – from infants to adolescents, up to 17 years of age, Italian or foreign;

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2 For further detail on relevant international law, see Chapter 2.
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- families of origin – families known to and of concern to social services with different types of problems and needs, who cannot or are not willing to care for their children on their own;
- foster families – singles, couples, married or cohabiting, with or without children;
- territorial authorities (regions, districts, municipalities) – social service offices, judicial authority.

To sum up, foster care in Italy is regarded as a temporary measure of finite duration. It allows children and adolescents living in significantly unstable families and surroundings to find a home other than with their family of origin. The purpose is to assist the family in need and provide a solution at a time of family difficulty or breakdown by ensuring the child’s psychosocial and educational needs are fully met, and by protecting their right to grow up in a stable and safe family environment.

Legal framework: what requirements emerge?

Let us look briefly at what we believe are the main aspects emerging from the legal context.

First, the fundamental starting points are the “interests of the child” (UNHCR, 2008) and, in particular, the practical implementation of “child-friendly justice” (Council of Europe, 2012). This refers to a justice system that is suitable for the child, “a misura del bambino” – that is to say, when one has taken into account both the child’s biography (experiences and living conditions) and their possibilities of development (their expectations and material and ideal resources) – past, present and future. In other words, any measure or action designed to promote the personal and social growth of children needs to be “appropriate for real life” (UN, 2009).

Consequently, an adequate and regularly updated programme of training for socio-legal professionals, with the aim of creating a supportive network for any foster care project, is indispensable. To achieve this, the first step consists of establishing a seamless process of communication between the social and legal services involved. However, linking together different services does not constitute an end in itself. The service network will only become legitimate when it can prove its capacity to promote and collaborate with everyone concerned. The child, their birth parents, the carers, the operators of the different services involved, these actors together represent the unified framework of decision-makers and partners within a foster care plan (see Law 149/2001), a plan that is configured as a resource for families in need who should be supported in the exercise of both their rights and their responsibilities (Ministero del Lavoro e delle Politiche Sociali et al, 2012).

The third important point is that only an open network, made up of trained professionals but extending towards the wider community, can help to ensure the kind of quick and responsible interventions that are essential for the efficiency of the system. This does not mean only reacting in emergencies but also being able to prepare for and choose the right moment.

For Italy, the starting point is the recent Article 315 bis. Civil Code. L. 219/2012, which assigns two essential rights to the child – the right to relationships and the right to be heard:

_The child has the right to be maintained, educated and morally supported by the parents, in accordance with his/her ability, his/her natural inclinations and aspirations. The child has the right to grow up in the family and to keep meaningful relationships with relatives. The child_
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who has completed 12 years, and even if under the age of responsibility, has the right to be heard in all matters and procedures relating to him/her.

This leads us to the fourth important point: the child’s significant relationships.

Conceiving the relationship between children and families as a right in Article 315 is worth noting because rights can only be abridged when balanced against other rights (or duties) and only when it is not possible to make alternative arrangements. This fact should lead us to review some judicial practices that all too easily provide for the removal of children from the family (del Valle et al., 2013), or that implement measures at odds with family relationships where these need to be taken into account. We will come back to this point (infra, 3.1).

Whenever possible, the implementation of a foster care plan should exclude legal measures that limit or reduce contact with parents and relatives in the event of placement outside the family, and should keep the overall duration of removal to a minimum and incorporate a plan for a return home (Occhiogrosso, 2014). If, therefore, a reinterpretation of the principle of the “interest of the child” is required, the “right to be heard” also has to be reviewed in terms of the child’s significant relationships and developmental potential (CRC, Article 12).

To “hear” a child is not the same as taking a testimony (Pazé, 2003). In fact, in light of the CRC principles ensuring the child’s participation in decisions about their own affairs, it means “listening” – eventually “with a third ear” – to a person describing their world (Dell’Antonio, 2001; Messner, 2004).

**Trends in foster care in Italy**

How effective have the placements made since the 1983 law been? What we know for sure is that there is currently an urgent need for foster care to draw on both the input of professionals and the “non-professional” skills of carers themselves, and to explore different and new forms of fostering, ‘particularly more flexible and temporary ones’ (Canali and Vecchiato, 2013, p. 3). For the reasons given above, we have to agree with this comment.

However, what should such flexible and temporary forms of foster care look like? Before using the ecosystem and Secure Base models to analyse actual relationships between the many actors involved, it is helpful to summarise recent foster care developments in Italy (Canali and Vecchiato, 2013) (see Figure 1).

Almost half of foster care placements (44%) are made within extended families. For 40 per cent of these children this does not constitute their first experience of substitute care. Only one-third return to their birth family (Canali and Vecchiato, 2013, p. 7). Under a protection decree, “unaccompanied foreign children” are placed in residential settings (85% vs. 48% of others) rather than in foster families. Furthermore, only 24 per cent of foster children originally from overseas are in culturally or ethnically matched placements, and these mostly (64%) within their extended families.
The choice between family-based foster care and residential care is influenced by the children's age (the older the children the more likely they are to be placed in residential communities): 82 per cent of teenagers aged 14 to 17 are placed in residential care with only 18 per cent in foster families (see Figure 1). The ratio is very different for younger children: 73 per cent of those aged 0–2 are placed in foster families with only 28 per cent in residential communities; percentages for children aged 3–5 remain broadly similar (77% in foster families and 23% in residential communities). For most foster families (78%), this will be their first experience of providing a foster care placement. Approximately one in four foster families (23%) looks after more than one child, often siblings. Among such families, 58 per cent comprise couples with children, 28 per cent couples without children and 14 per cent single-parent families (del Valle et al, 2013, p. 233).

The most likely placement available to 14–17-year-old adolescents (56%) is in a residential setting but the figures are lower for 11–13-year-olds (19%). (Only 9% of very young children are so placed: 3% of 0–2-year-olds and 6% of 3–5-year-olds.)

The courts play an important role since around three-quarters of foster care placements (76%) are the result of judicial decree. In 2010, only 24 per cent of family foster care placements were consensual (Rapporto CRC, 2013).

In Italy, the allocation of social protection funding for children is among the lowest in Europe. Paradoxically, it is the regions with limited resources that have the highest rate of children in a state of psychological and moral confusion and material deprivation (Gori et al, 2014) and which receive less than adequate allocated funding (UNICEF, 2012). Needless to say,
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these financial deficiencies are mirrored by a lack of professional training or infrastructure, with the result that often fostering is reduced to a mere “placement”, i.e. without the individualised care planning that should be regarded as essential. The analysis of this situation pursued in Focus Group 2 provided further support for these conclusions (see Figure 2).

How to improve the foster care system

Given the criticisms and shortcomings of the present provision for children needing substitute care in Italy, how can the situation be improved? We suggest two ways forward: the adoption of an ecosystem perspective and the introduction of the Secure Base model.

Caregiving as an “ecosystem”

First, a few caveats regarding the use of the word “ecosystem” may be helpful. According to common definitions (Willis, 1997), the ecosystem is a community of living organisms (plants, animals or microbes) that interacts with the non-living components of their environment (things like air, water and soil). Ecosystems are also dynamic entities tending to achieve and to maintain an equilibrium: constant changeability. This is their distinguishing characteristic. The notion of a system (von Bertalanffy, 1968; Luhmann, 1995) implies a functional description of material and energy flows. These comprise a network of interactions between systems, and between systems and their environment (Pickett and Cadenasso, 2002; Smith and Smith, 2012). This perspective applies equally to human beings and social systems; they are open systems with a specific structure and function that are determined (but not controlled) by both external and internal factors.

More specifically, the implications of introducing these two models are as follows:

- The child maintains an ambiguous relationship with both birth and foster families, because in most cases there is neither a clear plan nor a clearly defined way forward in terms of goals and deadlines.
- Despite being the subject of actions and decisions by services and authorities, often the child is not listened to (Centro Nazionale di Documentazione e Analisi per L’infanzia e L’adolescenza, 2014). As one focus group participant said, ‘The comparison with educators is important, but there is often a perception of not being listened to and believed, above all’ (Focus Group 4).³
- The child has effective relationships with the community, with school and with their peers. However, the community is marginalised, both by services and by the authorities, and neither birth nor foster families feel that they receive due consideration in terms of support and attention to their needs.
- It is important to underline communication problems, even within the same network; during the focus group discussions, it emerged that communication between birth family members and foster carers is quite infrequent; between services, there is often rivalry and competition; and authorities rely on the hierarchical principle.

³ The term educator is used in a broad sense, to refer to a person who educates, especially a teacher, principal or other person involved in planning or directing education.
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The Secure Base model

Based on the above evidence, we decided to use the Secure Base model developed in the UK by Gillian Schofield and Mary Beek of the Centre for Research on Children and Families at the University of East Anglia. In the authors’ own words (Schofield and Beek, 2014b, p. 1):

All children need sensitive caregiving, but children who come into foster care or adoptive families are likely to have experienced backgrounds of abuse and neglect, as well as separation and loss, and need a special kind of therapeutic caregiving.

The Secure Base model has its roots in theory and research on attachment, but also on resilience. The goal of the model is to provide sensitive caregiving that develops secure close relationships. These relationships help children to recover from previous harmful experiences in close relationships. This enables them to feel competent to face future challenges successfully and to fulfil their potential.

To provide a secure base it is necessary for the caregiving system to create conditions that allow the child to experience secure relationships, reducing the anxiety caused by their feelings of abandonment and trauma, and instilling the feeling that they are in a safe home. For this reason, it is necessary to nurture the child through a process of building trust, managing emotions and participating in positive experiences that help build self-esteem and a feeling of belonging. Carers need to offer the child physical and emotional availability in respect of the child’s specific needs and signals, enabling them to alter their own expectations of adults.
The Secure Base model brings together five dimensions of caregiving. As Schofield and Beek (2014b, p. 2) explain:

*These five dimensions interact with each other to create a secure base for the child. The first four dimensions of caregiving – availability, sensitivity, acceptance and co-operation – come from the work of one of the earliest attachment researchers, Mary Ainsworth (1971, 1978). She found in her study of infants that these four caregiving dimensions were associated with secure attachment. The fifth dimension, family membership, has been added to the model because of its significance for all children, but especially for children separated from their families of origin and developing new family memberships in their foster and adoptive families. The family membership dimension focuses on the child’s need for a sense of belonging in their new family that still takes account of their connection with their birth family.*
In building a secure base, the foster family plays a fundamental role in the organisation of daily life, having to pay close attention to the child’s signals to promote an empathic process that can help him or her to express thoughts and feelings. The caregiver’s task is to support the child in making choices/experiences, both good and bad, helping them to recognise their own abilities but also their limits. The main objectives are to foster belonging, self-esteem and autonomy and these cannot be achieved without encouraging an appropriate sense of connectedness to the birth family and promoting a shift towards responsibility. The specific skills of the foster family are identified in three dimensions: cognitive, emotional and behavioural.

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4 In the implementation of the Secure Base model the birth family and the foster family are separated, as they have different functions while occupying a homologous position.
The birth family is extremely important as it represents the history of the child. Where this is appropriate and safe – as it won’t be in every case – birth parents should be actively supported, on the one hand to maintain good, consistent contact with the child in order to prevent them from feeling the anxiety of abandonment and, on the other, with the foster family, in order to contribute to the child’s growth and education. The birth family also has to collaborate in the formulation and management of the foster care plan and to follow a therapeutic path in order to improve their parenting skills. Six per cent of children in foster care have no contact with any family members, while 43 per cent have regular contact (Centro Nazionale di Documentazione e Analisi per L'infanzia e L'adolescenza, 2014, pp. 76–81).
The service network is the pivot on which the caregiving system turns. The first aim is communication, followed by two main tasks: assessment and support.

Towards the child:
- highlight strengths;
- promote network actions to support the child;
- agree on goals to be achieved;
- monitor progress.

Towards the foster family:
- support their strengths and skills;
- intervene in critical situations;
- share discussion and review of the child's plan;
- assess and monitor their support needs.

Towards the birth family:
- provide resources where needed;
- draw up plans for care and support;
- share discussion and reviews of the plan for the child;
- assess and monitor their support needs.
In order to achieve child-friendly justice founded on the Secure Base model, it is necessary for every decision to be adapted to the needs of the child, and to be age appropriate and timely, i.e. respecting each child’s developmental stage.

The role of the juvenile justice system in Italy is particularly relevant, when considering the high percentage of emergency admissions to care: 26 per cent of children are removed from their birth families as a result of emergency intervention by the police without the consent of their parent(s) (Centro Nazionale di Documentazione e Analisi per L’infanzia e L’adolescenza, 2013, p. 21). This figure points to the difficulty of structuring successful foster care pathways, as the plan for the child in such cases is not developed by services after careful consideration of the case, and especially the resources available, but rather imposed by the authorities, making ongoing work with the birth family all the more challenging. We are therefore obliged to think about the construction of a more advanced system of child and family law and juvenile justice, mindful of the different kinds of intervention that may be needed and in accordance with the requirements of “child-friendly justice”.
The community is the child’s environment and the source of the key social ingredients of resilience (Gilligan, 2009). Children who participated in Focus Group 4 reported feeling most comfortable only with their friends. Other important people involved in the community, such as school personnel, are all too often seen as marginal figures.

### Proposals to extend and develop foster care in Italy

In the preceding pages we observed the need for new forms of fostering that envisage “measures with different content”, developing in ways appropriate and respectful to children and their families. From this perspective we feel it is necessary to draw attention to a practice already piloted in Italy, which we believe represents an important future development in family fostering. We call this “mild adoption”. Subsequently, we propose another model as a corollary of the main one, intended to support various types of fostering: the “clinical-practical” model of learning as a “secure ground base” for the implementation of different forms of foster care. In both of these, we stress that foster care means “trusting and entrusting” (Canali and Vecchiato, 2013, p. 2) but also “empowering” (Messner, 2013).

### Mild adoption

In the past, “mild adoption” (see Occhiogrosso, 2014) was treated as an experimental
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extension to adoption law (Law 184/1983, Article 44(d)).\(^5\) It was tested as a judicial practice by the Juvenile Court of Bari for five years during the period 2003–2008. As an experiment, it has been applied to those cases where the child was *de facto* abandoned but was at the same time in foster care (even beyond the legal contraints such as Italy’s two-year temporary measure) and where there is no possibility of reintegration with the family of origin. In establishing the significant emotional ties that exist between the child and foster family, the child is declared as having “semi-abandonment” status.

Mild adoption is characterised by five main features:

- The term “mild” (*mite* in Italian) is used, as opposed to “full” or “strong” adoption, which legally ends the child–parent relationship.
- Unlike full adoption, both married couples and single persons are legally eligible to apply and there is no upper age limit for the adopting party; the minimum age limit is determined by a difference of age between the adopters and the adopted of at least 18 years (Law 184/1983, Article 6).
- It is implemented with the consent of the minor, if over the age of 14, and of the parents or legal guardian (in the event of parental responsibility having lapsed or been revoked).
- It does not sever the child’s relationship with their birth parents, but adds a second, adoptive relationship.
- It does not bring with it the trauma of abruptly removing the child; it provides for a gradual shift towards the alternative family; it does not stigmatise the family of origin, limiting itself as we have seen to recognising the existence of a situation of “permanent semi-abandonment”.

The institution is based on three main assumptions:

- the young person falls within the category of “children in limbo”,\(^6\)
- foster carers are willing to accept mild adoption;
- the legal basis is Law 184/1983, Article 44.\(^7\)

The procedure for this type of adoption implies a five-step process:

- verification as to whether the child is in a state of “permanent semi-abandonment”;
- meeting the couples (or single persons) who are willing to accept mild adoption;
- entrusting the child to a couple (or single person) following comparative selection from among the candidates;
- co-ordination with local services for professional assistance in fostering;
- decision on the time limit for when the child will leave the foster family and return to the birth family, or on the extension of the fostering period if return is not possible and the fostering arrangement is transformed from temporary to definitive.

\(^5\) The experience in Bari makes explicit reference to cases in which the minor was temporarily without a suitable family environment and had to be entrusted to a family that was ‘able to provide the young person with the care, upbringing, education and affective relations that they needed’ (Law 184/1983, Article 2).

\(^6\) The phrases “permanent semi-abandonment” and “children in limbo” refer to the uncertain prospects for a child’s future due to the partial unsuitability of their family and the precarious relationship with the foster carers, who can reject them at any time.

\(^7\) Article 44(d) allows this form of adoption ‘if there is evident impossibility of pre-adoptive fostering’.
Mild adoption and the European context: the European Court of Human Rights’ ruling in the case of Zhou vs. Italy

Mild adoption has had a long and arduous journey, perpetually caught between supporters and detractors. The recent ruling of the European Court of Human Rights in Strasbourg in the case of Zhou vs. Italy (European Court of Human Rights, 2014) is worthy of particular attention given its relevance to this complex issue. The importance of this ruling lies above all in the principles laid down and the contrast between these and the ones underlying Italian legislation on adoption.

The Italian system is founded on the child and their right to a family. In contrast, European legislation attributes centrality to family bonds, starting from the principle that every person has the right to respect for their “private and family life” (ECHR, Article 8). Within the family context, this principle safeguards not only the minor but also the adult. It protects the family as a common form of living arrangement rather than seeking solely to prevent harm and injury to the child.

This diversity of perspectives has significant consequences:

1. Italian law (Law 184/1983, Article 44(d)) envisages a form of simple or “mild” adoption that enables the maintenance of both the legal and human relationships with the birth family, adding to these the adoptive relationship. However, in the Italian system, compared to full adoption this type of adoption is relegated to a secondary level. It is also important to note that the number of adoptions in Italy is considerably lower than the number of families available: in 2011, the number of children adopted was 1,016 while the number of families wishing to adopt was 9,795 (del Valle et al, 2013, p. 234).

2. The fact that in the European Court of Human Rights’ ruling the use of full adoption is limited to exceptional circumstances where parents have proven to be particularly incapable, results from the application of the principles of European law in which the concept of abandonment is narrower than it is in Italian legislation.

3. The centrality of family bonds, upheld by the European Court’s ruling, has had a further effect on parents – the need for national authorities to pay special attention to vulnerable persons and guarantee them greater protection. This arises as part of the application of Article 8 of the ECHR, that is not only in order to prevent the abandonment of children, but also, and above all, for the protection of persons in difficulty. To be precise, the role of the authorities is to assist them, ‘to guide them in their affairs and advise them on the different types of social security available to them, the possibility of obtaining social housing or other means with which to overcome their difficulties’ (European Court of Human Rights, 2014).

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8 This is because full adoption is regarded as being the general practice, while simple (i.e. mild) adoption is applied in special cases. It is also important to note that the number of adoptions in Italy is considerably lower than the number of families available: in 2011, the number of children adopted was 1,016 while the number of families wishing to adopt was 9,795 (del Valle et al, 2013, p. 234).

9 Indeed, Italian legislation also envisages abandonment in the presence of force majeure, unless this is of a transitory nature (Law 184/1983 Article 8, comma 1). Thus, in the case of parental illness (to which the Zhou vs. Italy ruling refers), European legislation, excluding the notion of abandonment, rules that only simple adoption can be applied.
Alternatives to custody

We cannot help but observe a surprising affinity between the basic principles of mild adoption and those of European law.

Table 1
Full (or strong) adoption, mild adoption and fostering: three responses at a glance

<table>
<thead>
<tr>
<th></th>
<th>Full (or strong) adoption</th>
<th>Mild adoption</th>
<th>Family fostering</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Users</strong></td>
<td>Minors in a state of abandonment</td>
<td>Minors</td>
<td>Minors and families</td>
</tr>
<tr>
<td><strong>Carers</strong></td>
<td>Married couples, minimum and maximum age difference with respect to the child: 18 and 45 years</td>
<td>Married couples, unmarried and single persons – without age limits</td>
<td>Married couples, unmarried and single persons – without age limits</td>
</tr>
<tr>
<td><strong>Relationship with birth family</strong></td>
<td>Anulled</td>
<td>Limited, but maintained</td>
<td>Maintained and encouraged</td>
</tr>
<tr>
<td><strong>Nature</strong></td>
<td>Definitive</td>
<td>Subsequent to fostering</td>
<td>Temporary</td>
</tr>
</tbody>
</table>

The clinical-practical model of learning

As a result of both our analytical studies and, in particular, our evaluation of the focus group discussions within the context of the wider research project of which these guidelines are an integral part, a serious discrepancy emerged between what family fostering ought to be and what it actually is. This is widely evidenced (Ministero de Lavoro e delle Politiche Sociali et al, 2012; Canali and Vecchiato, 2013; Centro Nazionale di Documentazione e Analisi per L’infanzia e L’adolescenza, 2013; del Valle et al, 2013). However, a second fact emerged. Each of the actors involved in fostering – adolescents, carers and parents, operators of the different services, lawyers and judges – when interviewed as participants of a focus group, stressed the need for constant practical support, provided by professional staff members in a timely and respectful manner during the various phases of the evolution of a fostering plan. This is what leads us to propose a “clinical-practical model of learning” that aims at practical rather than theoretical achievements. Analogous to the model of doctors’ clinical specialisation, it constitutes a way of learning that is not academic. Conversely, it represents a form of concrete educational support where learning is structurally ensured. Centred on learning by doing in real cases, the target group addressed comprises the actors involved in the caregiving system. Given that it seems to work even in legal education,10 our hope that it could also serve the needs and skills of foster carers may not be completely unfounded.

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10 For a comprehensive perspective, see the excellent reader edited by Frank Bloch (2011); for experiences and outcomes in the US, see Selbin and Charn (2007), Sandefur and Selbin (2009), and, for the community-based clinical law programme of Harvard Law School and the structure of its Legal Services Center where students working under attorney supervision provide essential legal services to low-income clients: www.legalservicescenter.org/students-clinics/our-clinics/; for the UK, see Grimes (2000) and Lewis (2006); for Italy, Winkler (2010) and Cruciani (2012).
Certainly, the implementation of such a model has to face and overcome some difficulties:

1. On all levels of political governance (national, regional, local) it is necessary to invest more resources in community services and support. It is true that there has been, especially in recent years, a severe lack of resources that increasingly jeopardises the capacity of local services to provide immediate interventions (del Valle et al, 2013). But this objection seems to make a case for a shift in child protection policies rather than being a reason against it.

2. Thus, on the ideological level, a paradigm shift is necessary. The clinical-practical model recognises the role of individuals, families and communities as a fundamental component of change that can affect policies, not only those related to children. It is in line with new solutions in terms of “re-generative” welfare (Fondazione Zancan, 2012; del Valle et al, 2013, p. 236).

3. While we can see no need to abandon the given legal framework of Italian foster care, it is clear that renewed efforts in the field of social policy should include the intensification of the link between forms of foster care and the child and family law/juvenile justice systems. In both directions, the high percentage of placements with a judicial decree (76%) (Canali and Vecchiato, 2013, p. 8) reveals not only the force but also the weakness of the present arrangements.

4. It is true that Italian culture is characterised by the high value given to the family when dealing with the needs of its members. As has been argued (del Valle et al, 2013, pp. 228, 236), strong family roots lead birth families to perceive foster families as rivals in relation to the child; many seem to be afraid that fostering would result in the break-up of families. Often, a preference is shown for children to be dealt with in residential homes by educators whose role is not to replace family bonds. In a word: ‘Strong family ties make it generally hard to come to terms with the idea of sharing responsibility for the care of children with others’ (del Valle et al, 2013, p. 232 [our italics]). However, one should note that this is true not only for the clients of foster care, but also for the professionals involved. Apart from the fact that, normally, they belong to the same Italian culture and share the same values, a tangible result of our focus group discussions was the fact that professionals share with lay people perceptions of rivalry, fears and a preference for institutional solutions that leave established structures intact.

So, surely, there is a need to abandon traditional ideas of “family” and encourage the wider promotion of a culture of fostering. This requirement needs to be addressed first and foremost to the services involved: it is necessary to replace the old notions with the idea of the family as an ecosystem, as a modern form of living together that involves shared life choices rather than shared blood, even where it still resembles the old one (think of “patchwork families”).

The typical functioning of the clinical-practical model may be represented as follows. The juvenile justice centre authorises regional centres to supervise and assess training programmes aimed at the target group, which entail the acquisition of credits that are an obligatory requirement for working in the field of family fostering. This will intensify co-operation among professional groups and enable the training of adequately qualified people as well as the creation of databases of available foster families. All this would increase the capacity of the system to provide concrete, “tailor-made” solutions to children and families in difficulty.
This model of co-operation would enable a congruous and timely response to the problems routinely experienced by everyone involved in fostering – including professionals. It would structurally allow for constant monitoring of each specific case, as well as the progress of fostering in general. Unburdened by models of theoretical learning based on “transfer of knowledge”, it would provide responses “in the field”.

**Foster care for young people in conflict with the law: opportunities and obstacles**

We have looked at legislation and statistics, discussed the application of two distinctive frameworks – the ecosystem and the Secure Base model – and advocated for the use of mild adoption and the clinical-practical model of learning. Mild adoption could be said to be about longer-term fostering/upbringing. Is there not also a need for more flexible foster care arrangements to help young people in conflict with the law? The general answer is a resounding “yes” but it needs qualification. In concluding our chapter, let us consider the possibilities and constraints of developing specialist fostering resources for these young people.

**Foster care for young people in Italy**

As we have stated, foster care in Italy seems to be in a constant state of fatigue. Family placements are made in just about half of the cases (49.6% in 2010, see Centro Nazionale di Documentazione e Analisi per L’infanzia e L’adolescenza, 2013) and include children aged 10–13 years. Adolescents are usually placed in residential communities. No (reported) relevant experiences of foster care with young people in conflict with the law exist. In our view, this situation exists because of the following reasons:

a) *From the point of view of foster families.* As illustrated above, there is a series of difficulties caused by factors such as the insufficient supply of foster placements and carers, the extreme complexity of the situation of children and/or families (especially in cases where there are multiple problems in their backgrounds), and the absence of adequate planning and preparation for new fostering projects. The result is that foster families themselves are unable to take care of those in their care and social services cannot effectively support them in this task.

b) *From the point of view of children and adolescents.* Whereas the problems typically associated with young people (e.g. drug use, alcoholism and bullying) seem to increase in number and variety, adequate responses require resources of a scale not available to local services. A further difficulty is that in Italy around one-quarter of young people in conflict with the law are of foreign origin. For these young people, one might want to consider recruiting more foster carers from their specific communities but such projects do not exist. On the other hand, while it is considered desirable to match children from overseas with families of similar origins, the possibility of also placing Italian children with these families, who may be otherwise entirely suitable, or the contrary (del Valle et al, 2013, p. 234) is not considered. “One-way street” solutions in the field of fostering are not desirable.
c) From the point of view of the practical application of foster care. Placements last an average of 39 months (Centro Nazionale di Documentazione e Analisi per l’Infanzia e L’adolescenza, 2013). About 60 per cent of children and adolescents remain in foster care for more than two years. Only one-third return to their birth families. These figures reveal that foster care placements in Italy often continue longer than planned or originally intended. Children and adolescents are all too often assigned to a life in foster care that sees them pass from family placements to community placements and back again until they legally reach adulthood.

Foster care for Italy’s young people in conflict with the law

So, what are the possibilities and constraints of developing specialist fostering resources for young people in conflict with the law? In considering the differences between penal and non-penal provisions of child protection and, as a consequence, the differences between the two groups of young people who are “in conflict with the law” and young people who are not, we wish to start from the observation that Italian juvenile penal law is generally acknowledged to be oriented to the particular personality of children and adolescents and their individual educational needs. Thus, judicial proceedings do not lead necessarily to custody and arrest; on the contrary, these may appear as optional solutions that can and should be replaced by a wide range of “alternatives to custody for young people in conflict with the law”. From this point of view, foster care is one among several provisions available to address the needs of these young people.

This observation is not meant to minimise the importance of foster care as an option. Undoubtedly, family fostering provides comparatively more appropriate solutions to the problems of young people: they continue to stay within a family context that is responsive to their needs for cognitive and emotional development; the relationship with the birth family is ensured, no interruption occurs; children are less likely to lose the thread of their life narratives; and foster children contribute to the emotional enrichment of foster families. The weaknesses of foster care mainly consist of a shortage of available families and lack of suitable preparation programmes and appropriate supports for foster carers. The poorly developed culture of collaboration and co-operation in the interest of the children is, as we have seen, a major obstacle. On the other hand, family fostering offers to children and adolescents in conflict with the law a unique chance: they continue to share the life of a community. In comparison with other child protection provisions, foster care projects are economical, and last but not least, they may contribute to helping birth families in their efforts to find an equilibrium.

The Italian foster care context is characterised by the following facts: foster care means placements exceeding their planned duration; children and adolescents being placed, wherever possible, in their own families (or, where not, in residential care); and the number of families available for adoption being larger than that of potential foster families. Given these premises, mild adoption seems to offer an alternative potential resource for young people in conflict with the law too, because it derives from a positive concept of family fostering and aims at ensuring – in a way different from what one would expect from the name – not the right of the family to a child, but the right of the child to a family and significant relationships. Mild adoption is not adoption per se, but a new positive development that resembles more “intensive fostering” than “strong adoption”.

Cultural conditions apart, a threat to the development of fostering in Italy is the lack of institutional and public policy focus and public information in the field. There is no coordinating agency capable of assessing local resources and comparing and coordinating different services, institutions, non-governmental associations and groups. Therefore it is hard to create efficient networks. There is a paucity of economic resources as well as of experts. If we could improve this context and introduce the radical ideas discussed earlier, there is a much greater chance of foster care becoming the norm for all children needing substitute care and for particular groups, such as young people in conflict with the law, whose outlook under present arrangements is poor.

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TOWARDS ESTABLISHING A QUALITY STANDARDS-BASED FOSTER CARER SERVICE FOR CHILDREN IN CONFLICT WITH THE LAW

A POLICY OVERVIEW – BULGARIA

Nelly Petrova-Dimitrova and Nadya Stoykova

This chapter seeks to facilitate the introduction of child-friendly justice in Bulgaria by first considering the needs of children who engage in behaviours in conflict with the law, then examining ways of positively meeting these needs through the introduction of modern alternatives to custody, including specialised intensive foster care. Drawing on our previous research (Petrova-Dimitrova and Stoykova, 2013, 2014), we review trends in youth crime and explore possibilities for achieving child-friendly justice under the country’s existing legal and professional systems, including what needs to change within them. We finally consider how key institutions and professional groups responsible for young people in conflict with the law can contribute to attaining the goals presented.

Needs assessment for the introduction of alternatives to custody for children

Children in conflict with the law are at risk despite not being recognised as such in legislation (see the Child Protection Act (CPA)). Our starting point is to acknowledge that the case for developing alternatives to custody, including intensive foster care, is built on the need to produce better services and more positive outcomes for children in conflict with the law. In Bulgaria these children and young people are disadvantaged for at least three reasons:

1. They are not considered to be children at risk and are excluded from the child protection system. This is evident both in child protection legislation and in the practice of the child protection system, which does not accept referrals or work with cases of children who have been sentenced to or have been subject to a “correctional-education measure”.

2. Our concept of “behaviour in conflict with the law” is too vague and too broad as it can also cover “antisocial behaviour”, such as running away from home, vagrancy or street begging, i.e. types of behaviour that place the child rather than society at risk.

3. The statutory age of criminal responsibility for children in conflict with the law is officially set at 14 years. In reality, it starts at eight years since Bulgaria has two laws for “combating” juvenile delinquency: the Criminal Code and the Law on Combating Anti-Social Behaviour of Minors and Underage Persons (LCASBMUP). As a result, children as young as eight are institutionalised because they are considered “deviant”. This is why it is important for both professionals and the public to be more aware of these children, their number, status, age, sex, ethnicity, etc. It is particularly essential to know the profile of their behavioural difficulties and their needs.

1 Children engaging in behaviour in conflict with the law come from marginalised communities, i.e. from families living in poverty and deprivation.

The findings from our recent survey (Petrova-Dimitrova and Stoykova, 2013) indicate that the majority of children engaging in behaviour in conflict with the law come from disadvantaged communities that do not fully benefit from the resources of society. As many as 83.1 per cent
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of the parents of children from Social Educational Boarding Schools (SEBSs) included in the survey belong to such communities, i.e. families living in poverty, marginalised communities or minority ethnic groups, and homeless families.

The survey analysed data from a variety of sources: expert assessments of children placed in two SEBSs, focus groups, interviews and relevant documents. The data from the survey of families of children placed in these schools indicate that in 41.5 per cent of cases children came from large families with five or more children, in 32.5 per cent of cases from families with three or four children, and in 26 per cent of cases from families with only one or two children. The data further show that 62.7 per cent of the children were the oldest or the second oldest child in the family, suggesting that in large families the two eldest children are most at risk and more likely to become neglected as parental attention shifts to take in the arrival of younger siblings. Assessments of the children’s behaviour show that, to a significant degree, offending behaviour is the outcome of a socialisation process within their communities whereby theft, for example, becomes a useful survival tool. In addition, 41.6 per cent of the parents either had a criminal record or were known to the police.

These conclusions about the social status of the families and the relations within them are important for planning community-based prevention for disadvantaged families, especially those with large numbers of children. There is a need for better understanding of how poverty impacts on the behaviour of children involved in delinquency, including greater recognition that the impact is not direct; rather it comes through attending to children’s basic physical needs at the expense of their social, emotional and educational well-being.

2 Children engaging in behaviour in conflict with the law are victims of various forms of abuse.

Expert assessments indicated that 75 per cent of the children in conflict with the law had attachment issues – 60 per cent had symptoms of insecure attachment, while 14.5 per cent exhibited symptoms of disorganised attachment (Petrova-Dimitrova and Stoykova, 2013). The majority of nought to three-year-olds had been raised in a family; a small proportion of them (9.2%) had been placed in child care institutions, while the remainder were looked after by other adults, mainly in the extended family (e.g. grandparents, aunts, etc.). Approximately two-thirds of the children (65%) had suffered separation or discontinuities in their relationship with significant adults in the family. More often than not, the reasons were:

- placement of the child in an institution (social care home for children);
- parents going abroad;
- separation of parents due to death or divorce.

Data from the same survey indicated that over half (53.2%) of the children had experienced physical or emotional abuse in their family and some had suffered sexual abuse (6 out of the 77 child respondents reported this). Over 70 per cent of the children had had an upbringing characterised by neglect and restrictiveness or harsh discipline, the second most common parenting style being regular recourse to punishment (around 13% of the children reported this and 21% of the parents admitted as such). An earlier survey (Pushkarova et al, 2010) reported a ‘high occurrence of domestic violence in children engaging in negative behaviour (58.82%)’, significantly higher than the percentage of families where other types of abuse were found (38.24%).
According to data from the State Agency for Child Protection (SACP) for 2009, based on the individual records of children placed in SEBSs and Correctional Boarding Schools (CBSs), 8.4 per cent had been victims of crime or abuse:

*In some cases children need psychological support and treatment, not placement in a boarding school. Practice shows no investigation of individual cases and a lack of skills to do so and to “diagnose” the actual problems behind the children’s deviant behaviour.*

3 Children in conflict with the law tend to have educational difficulties, to be at high risk of social exclusion and to need special support to avoid the risk of dropping out of education and becoming marginalised.

The link between social inclusion and educational achievement is well established (e.g. Jackson, 2014). In Bulgaria the education system remains in a state of crisis and is subject to considerable criticism. A proposed new law has not been approved and changes of government have been delaying and postponing any reform. Even though the Ministry of Education and Science (MES) is an active stakeholder in the juvenile justice system through its responsibility for boarding schools, there is still a dearth of good practice in relation to the education of children at risk. In fact, Bulgaria has one of the highest school drop-out rates in Europe.

Meanwhile, an entirely school-based model of vocational education and training is maintained with access dependent on completion of a specific school grade. The current statutory opportunity for young people to enter vocational education upon completion of Grade 6 exists in theory but not in practice. For example, in Sofia, a city with the largest number of schools in the country, owing to lack of applicants there is no such class open for enrolment, but there are no applicants because there is no class to apply to! As data from the research carried out under the Alternatives to Custody for Young Offenders Project indicate:

*This is a huge problem; in reality, schools do not do enough to keep children at risk engaged in education, with the largest numbers dropping out in Grade 4 because prior to Grade 4 there is no grade retention. We had meetings with the MES but they do not seem to recognise the problem of school drop-out as theirs to own and deal with; instead, they treat it as the responsibility of the children’s caregivers. In the Community Support Centre (CSC) we provide educational support but it is insufficient for high-risk children who are still illiterate. When these children drop out of school, there are no other strategies for returning them to school and they slip into begging, crime and prostitution. The law needs to be amended and more flexible forms introduced for enabling these children to catch up and receive vocational training as well.* (Social Services Manager)

*This is a major problem, because in reality these children are being socially excluded. Another huge issue is the discrepancy between the grade year a young person is in and their educational attainment. A SACP inspection report found that some children in Grade 6 or 7 in SEBSs cannot even read or write.* (Participant from the Agency for Social Assistance)

Data from the SEBS survey show that 79 per cent of children in these boarding schools experienced difficulties in education, in 43 per cent of cases described as serious (Petrova-Dimitrova and Stoykova, 2013). In reality, this means that eight out of ten children had serious educational difficulties. The validity of these data is underlined by the fact that only
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31 per cent showed no mismatch between grade and age. The majority of the children (as many as 69%) were lagging behind in their studies by at least one year, with 14 per cent trailing by as much as four years or more. Often they were already permanently excluded or absent from school prior to their placement at the SEBS:

*There are no data for school maladjustment, but only a negligible share of children with delinquent behaviour continue in school. The analysis of judicial practice shows that “difficult” children go on to commit offences later.* (Pushkarova et al, 2010)

Clearly, the education system is not able to meet the educational needs of these children.

4 **Teenage boys make up a large proportion of children in conflict with the law. As they struggle with social norms they need support and mentoring with the processes of growth and maturation.**

The findings from the assessment exercise show that the relative proportion of boys placed in CBs was almost twice as high (24.7%) as that of girls placed in SEBSs (11.6%) (data provided by the SACP, Petrova-Dimitrova and Stoykova, 2013).

‘These patterns are most often the case in primary education and even more so in the period Grade 5 to Grade 7’ (Pushkarova et al, 2010). According to the survey on children placed in SEBSs and their families, ‘more often than not behavioural problems of the children from SEBSs have started between the age of 8 and 11’. For almost 60 per cent of all children, this is the age at which these types of problems initially become apparent. If we add 12-year-olds to this age group, the figure is 70 per cent of all children included in the survey. The next high-risk age category is those aged 12–13, which covers 26 per cent of the children. In practice, this means that, overall, preventive efforts should be targeted at 8- to 11-year-olds as the age group most at risk (Petrova-Dimitrova and Stoykova, 2013).

5 **A large proportion of children in conflict with the law have mental health difficulties requiring assessment and treatment.**

A serious problem for children with significant mental health and behaviour issues is the difficulty of accessing quality health services. Professionals working with children in conflict with the law define this as an important issue, but one that is currently beyond their capacity to solve. In most cases these children’s problems are unlikely to have been properly assessed.

According to the survey of children in SEBSs (based on data from their individual files and the available documentation on their mental health functioning and related assessment information), a psychiatric diagnosis is carried out in only 14.5 per cent of cases. For 1.3 per cent of the children there were no data in their files. This implies that for over 80 per cent of the children there are no assessed problems. The analysis, as part of the survey, also addressed the issue of whether, at the time of the survey, the child was undergoing some psychiatric treatment or was on related medication. Data indicated that only 6.5 per cent of the children underwent such treatment or were provided with counselling, while for the rest, for various reasons, interventions had been discontinued upon their arrival at boarding school. The specialised assessments of children in SEBSs, performed by the Child and Space Association teams, indicate that mental ill health issues were to be found in far more children than those with a formal diagnosis and/or currently on medication (Petrova-Dimitrova and Stoykova, 2013).
Bulgaria’s Criminal Code provides that children aged 14 or above who are in conflict with the law are regarded as having criminal responsibility. Best practice in responding to the needs of such children should be based on a combination of appropriate interpretation of the law by way of sanctions, orders and/or penalties, and social work support provided by social services.

As we have seen, all children in conflict with the law are at high risk and in need of protection and support. Those under 14 are dealt with by the child protection system, as are all child perpetrators of so-called “status” offences (i.e. acts not considered offences if the perpetrators are adults, such as running away from home, begging, prostitution, etc.), who are dealt with by the protection system and treated as children at high risk. The “offending” profile of children in the justice system most often includes antisocial behaviour, such as running away, hooliganism and crimes like theft or robbery.

**Trends in youth crime**

According to data from the National Statistical Institute (NSI) of Bulgaria, in 2012, the number of minors and juveniles registered as offenders was 11,460; 79.6 per cent (9,123) of them were in the 14 to 17 age group and 80 per cent (9,162) of the total were boys. In 2013, the number of minors and juveniles registered by the police as offenders was lower at 10,536. About 78 per cent (8,217 children) of these young people were in the 14 to 17 age group, and 78.7 per cent (8,292) of the total were boys. These statistics do not cover absolutely all the children and adolescents who had committed serious offences. In 2013, the number of minors and juveniles convicted of a crime by a judge was 6,007. Thefts of property were the most common crimes, with 3,621 young people (60.3%) committing this type of offence. The situation was similar in 2012. That year, the number of minors and juveniles committing a crime was recorded as 6,304. Again, thefts of property were the most common, with 3,827 (60.7%) of all those registered found guilty of theft.

Examining these data in more detail, in 2012 burglary featured as the highest share of the total of youth crimes, involving 27 per cent (1,033 young people); shoplifting amounted to 23.7 per cent (908 young people). Of the total number of recorded offences by children and adolescents aged 8 to 17 years, 356 (5.7%) were for “hooliganism”, 277 (4.4%) for drug-related offences and 269 (4.3%) for assault. Robberies involved 223 young people and sexual offences 93. In 2011, the number of minors and juveniles who had committed a crime was 6,586. Thefts of property were again the most common offences. Perpetrators of theft numbered 4,157 (63.1%) of all registered and the situation is similar for other crimes.2

Overall, the trend in absolute numbers of youth offences has been downwards – from approximately 5,000 registered children in the Child Pedagogical Room (CPR) in 2004 to less than 4,000 in 2011. The rate of offending per 1,000 of the child population, however, has barely changed: in 2008 the proportion of children convicted in the common criminal justice system was 0.006 of the child population, and increased only slightly to 0.007 in 2011.

Comparison between the absolute decrease in the number of registered child offenders and

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1 These are children and adolescents whose offences are formally recorded and where the offence lapses/expires after two years of probation if they do not commit another crime in that period.
2 For more information see www.nsi.bg/sites/default/files/files/data/timeseries/JST_2.3.xls.
the increased proportion of children convicted of offences suggests that interventions are struggling to be effective, whether preventive or reactive. The decrease in absolute numbers may be explained by a decrease in the overall child population of Bulgaria.

Overall, it is difficult to come up with a clear profile of the offences committed by children on the basis of current national data, as these reflect what is recorded by institutions rather than being a fully objective statistical record. The statistics include information on the number of children for whom records are kept by the police, the correctional-education orders imposed, the sentences passed, and so on. How such information is analysed can be influenced by subjective factors, especially regarding “combatting antisocial behaviour”, and reveals shortcomings in how behaviour and orders imposed are correlated, a lack of data on reoffending, etc. (for more details, see Pushkarova et al., 2010).

Children who enter the juvenile justice system are seen to engage in so-called “antisocial behaviour” and other offending. Data indicate that, in 2012, the children who came into the system because of antisocial behaviour in the Municipality of Sliven, for example, numbered 203, and in 66 of these cases, correctional-education orders were imposed – 45 on children under the age of 14 (of which 38 were boys and 7 girls). The offences for which these children were apprehended include theft or robbery (a total of 50 offences, out of which 20 orders were imposed on children under 14) and “hooliganism” (a total of 10 offences, out of which 6 were imposed on minors) (Petrova-Dimitrova and Stoykova, 2013).

The review yet again shows that children in conflict with the law are young people at risk, who need good care and dedicated systems of support to ensure their inclusion within the education system. Conversely, most studies indicate that, not being considered at risk, they will not have had any access to social services. These children need the kind of security that is simply not available, either from their families or from public service responses to their behaviour. Current methods of responding to these children’s needs instead exacerbate their problems, in as much as they are not individualised responses, do not rest on a professional needs assessment and deploy solely youth justice system interventions without integrating the available social resources or developing specialised social services.

**Juvenile justice offers no real alternatives to custody**

The juvenile justice system relies on a punitive approach, justified by existing outmoded legislation and with a focus on social control, and altogether failing to reflect child development knowledge related to young people in conflict with the law and their needs.

According to Bulgarian legislation, child detention is imposed under Article 13 of the LCASBMUP, which contains correctional-education orders, such as placement in a SEBS or a CBS, and in compliance with the Criminal Code (CC) and the Criminal Procedure Code (CPC), where, amid restriction orders and measures for deprivation of liberty, “detention in custody” is provided for. Among these measures a sentence of probation is the only alternative to “deprivation of liberty” and can include various restrictive and corrective orders. However, this alternative measure is imposed without really exploring other needs and possibilities, and without the participation of, or any kind of negotiation with, the offender. More often than not children are placed in one of the two available types of boarding school (SEBSs and CBSs) on the basis that theft constitutes “antisocial behaviour”. The number of children engaging in vagrancy, running away from home or displaying
aggressive behaviour who are placed in SEBSs is significantly higher than the number exhibiting the same behaviour who end up in CBSs. Looking at “place of residence” as an assessment criterion, as few as 36 children (less than 9%) of the total number placed in these institutions (24 in SEBSs and 12 in CBSs) originated from the region where the boarding school was located.

This pattern, whereby for a large majority of children being placed in these types of boarding schools means being moved away from the area inhabited by relatives and/or friends, has been reported by the SACP:

*It has been observed that social isolation is therefore a consequence of “deprivation of liberty”, while the generic category “non-isolation correctional education orders” in practice means “probation” and “public reprimand”. These sentencing processes are clearly indicative of the punitive and repressive nature of all correctional-education orders, a point on which the statistical data from the Prosecutor’s Office is at variance with the formal position of the LCASBMUP, but aligned with the understanding used in international acts and legal theory.* (Pushkarova *et al*, 2010)

At this stage, diversion within criminal justice is achieved via referral to the other justice system, that under the LCASBMUP. Opportunities for a child to bypass the criminal justice system can and should be developed by referring them to social services that might include consideration of foster care.

The search for alternatives to custody

There is a need to introduce inter-agency co-operation and to develop specialised social services for juveniles at high risk, including those in conflict with the law. A hopeful sign and therefore a potential resource for improvement that stands out in the current situation in Bulgaria is a motivation for change among the majority of professionals in this field, encompassing all the appropriate structures and institutions. There is also visible progress in the development of foster care.

Foster care referrals are initiated by the protection authorities and thus currently used solely as a child protection measure. To date, foster care cannot be used as an alternative to custody. However, specialised intensive foster care could be developed, even under current legislation, if children had access to social services. This would involve using foster care as a child protection measure and intervention for those whose behaviour is in conflict with the law, where it can help to ensure that custody is used only for short-term purposes and as a last resort.

As we understand it, the successful development of intensive specialised foster care requires a multi-disciplinary, multi-agency approach that brings together a number of services. These comprise:

- a team around the child, put in place from the moment of registering the offence, to include a representative of the authority in charge of the case at the legal proceedings stage, a representative of the Social Assistance Directorate (SAD) and the Child Protection Department (CPD), a representative of a specialised social service, and other professionals, if required;
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- completion of a comprehensive assessment with input from social work, education and psychology professionals, and consideration of the offence and its context, the family's circumstances, etc. This assessment would help to determine the decision on judicial orders and child protection measures, including foster care and other family support measures. The team around the child would co-ordinate the planned fostering intervention and maintain their involvement throughout.

A service package for specialised intensive social pedagogical support for juveniles at high risk should be based on the following principles:

- it is a child rights-based service;
- it operates in the best interests of the child;
- the team around the child acts as co-ordinator during all stages of the legal proceedings;
- duration of the service to last between six months and one year;
- the intervention is at an appropriate level of intensity.

Opportunities within the juvenile justice system to use intensive foster care as an alternative to custody

The options for implementing intensive foster care as an alternative to custody would fall into one of the following three categories:

1. The in-depth development of non-custodial orders and sanctions with social services, including intensive foster care, so that measures leading to increasing social isolation and loss of contact with the family of origin and other penalties are used only as short-term measures and a last resort;

2. Amendments to the legislation seeking to broaden the scope of the so-called “correctional-education measures”, to include social services for children at risk;

3. New legislation to introduce new orders and penalties for children in conflict with the law, to include intensive specialised foster care.

Opportunities to refer children in conflict with the law to social services

1 In the course of investigation

*Where a young person is under investigation for an offence, the parents could request the application of child protection measures too; however, foster care cannot be applied on the strength of the parents’ request alone.* A court decision is also needed provided that it is administrative. In fact, the practice of using foster care as a child protection measure shows that more often than not the decision is undertaken with the agreement of the birth family.

*The police could refer to the child protection system, as it is obliged to do in cases of child abuse.* The main obstacle, as police officers pointed out, is the restrictions on disclosure of information, which they interpret as a restriction on sharing the information with any other agency. Professional discussions with representatives of the justice system revealed conflicting interpretations of the law that need clarifying. For example, a District Prosecutor took the view that the ban applies to evidence, which is outside the scope of professional communication as such. Paradoxically, it is the specialist police units themselves, which
accommodate the Child Pedagogical Units and undertake investigations, who are conspicuously missing from the list of agencies required to share information with other institutions and organisations in the interests of justice, and in the best interests of the child. In any case, it is possible to draft a specialist overall assessment addressed to the Prosecutor. The existing powers of the prosecutor in Article 387 of the CPC enable them to order various authorities and bodies to provide information on a case, as well as a description of the personality of the offender, the reasons that brought about their offending/criminal behaviour, etc.

The Prosecutor’s Office and the court could make referrals to intensive programmes, including foster care, in the course of investigation and via the restriction orders imposed. This would be made possible by expanding the scope of application of the restriction orders under Article 386(1) of the CPC, i.e. it would be necessary to add to “supervision by a parent”, “supervision by a foster carer”; and to “supervision by Director of institution”, “supervision by the Manager of a Community-Based Social Service or by Director of Family-Type Placement Centre (FTPC)”. As indicated in our survey on the attitudes of the professionals concerned (Petrova-Dimitrova and Stoykova, 2014), despite some ongoing debates, moving forward in this way seems a real possibility. The current problem is the lack of legal provisions for the implementation of these measures. The way to achieve this is again by considering the child suspected of having committed a crime as being a child potentially at risk, thereby initiating an assessment, implementing child protection orders and, through these, mobilising social services, including specialised services such as foster care for adolescents at high risk.

The Prosecutor’s Office and the court could refer to intensive programmes and intensive foster care when diverting a child from the court/youth justice system through restorative justice orders. Based on the evidence gathered together in assessments and ensuing recommendations, the Prosecutor could decide to use the existing system for referring the case either to the LCASBMUP or to the court. However, as things stand at the moment, this can occur without the knowledge and active participation of the offender. This is a violation of Article 12 of the UN Convention on the Rights of the Child (UNCRC), i.e. of the right of the child to be heard in judicial or administrative proceedings.

There is a need for the introduction of restorative measures to divert children from the criminal justice system and rather than refer to the Local Commission, to introduce mediation and/or Family Group Conferences with the participation of the child and their family and relatives/friends, including the foster family, the victim or their representatives (if they wish to participate), the police, the CPD and service providers using Article 24 (para 1, sub-para 8) of the CPC.

2 At the point of decision-making regarding penalty or correctional-education measures

Minor amendments to the CPC would be needed in the use of Article 61 of the CC: social services need to be included, in addition to correctional-education orders. This would allow direct application of alternatives to SEBSs and CBSs.
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3 When a penalty is being implemented or a correctional-education measure applied

Referral to social services can occur at the request of the Local Commission (LCASBMUP). However, this does not happen often since they try to develop their own services, such as supervision by a Public Prevention and Correctional-Education Officer, psychological counselling, etc., while the only placement measures used are in boarding schools, as discussed.

*Extending the scope of the orders included under Probation – restorative measures.* The list of measures could also include measures for repairing harm done and community service. It is important that these meet proper effectiveness standards.

*Actual introduction of the multi-agency approach in the implementation of penalties for young offenders.* The plan for applying the sentence should be developed and agreed according to the provisions of the Execution of Penalties Act (EPA). Supervision would be undertaken by the probation officer for young offenders, who would therefore undertake a case manager role. There are legislative provisions requiring that the child protection authority, the police and the school take part in the planning process concerning which penalty to apply.

*With its stress on full utilisation of community resources when applying penalties on young offenders, Article 230 of the EPA provides an opportunity to utilise various programmes – developmental or correctional – when implementing the measure imposed.* Some of the programmes could be offered as community-based schemes by providers of services for children in conflict with the law. It is necessary to ensure that the links between the protection system, social services and the execution of penalties provided for in the legislation work effectively. Overall improvement is needed in the co-ordination between all services involved in the execution of penalties, on the one hand, and community-based structures on the other.

**Implementation approach**

**The implementation of the Roadmap requires consent at national level**

The Roadmap that has been adopted by the Council of Ministers constitutes a basic resource at national level. The support of the Swiss Government is also important for boosting the activities of the working groups on amendments to the legislation, to increase the capacity of the system.

Progress has been made to some extent on the legal framework; however, this has been patchy, slow and difficult, which rather indicates the need for a new law to be based on a new concept. Almost none of the national institutions is entirely ready with a clear vision and the expertise and resources required.

The Ministry of Justice has structures only in the area of the application of penalties; it has none of its own for juvenile justice, as everything is delegated to the Central Commission on Combatting Anti-Social Behaviour of Minors or Underage Persons (CCCASBMUP). For more than 20 years, not only has the Commission not been associated with any new reforming
initiative, it has also been a major opponent of any change. Neither has the Ministry of Justice been on the side of reform nor of developing partnerships outside the justice system. The mindsets and procedures of these bodies require a major change if the rights of child offenders are to be strengthened.

The Ministry of Labour and Social Policy (MLSP) via the Agency for Social Assistance (ASA) should be the main driver of reform, but in practice (to say the least) it does not support it. The policy of separating different aspects of children’s needs between separate departments has led to a fragmented pattern of policy, typified by the inability of the system to recognise that children in conflict with the law are children at risk.

The Ministry of Education and Science (MES) sees its own role in the reform process mainly as divesting itself of responsibility for the boarding schools, where “correctional-education orders” are implemented. There is no clear professional commitment to the development of specialised programmes and approaches for meeting the educational needs of adolescents at high risk.

One national institution that can be considered as a serious resource is the State Agency for Child Protection (SACP), which has been consistently pursuing a policy of reform in the name of child-friendly justice. The Ombudsman’s office, too, is a means for potential change. Other helpful resources include UNICEF – which is implementing innovative pilot projects in several regions of the EU including Bulgaria – and the NGOs working at national level, such as the NNC (National Network for Children), the SAPI (Social Activities and Practices Institute), the IGA (Crime Prevention Fund) and the FICE (International Federation of Educative Communities), as well as those working locally.

The development of specialised social services for adolescents at high risk, including intensive foster care, ought to be considered a priority at national level. Intensive foster care should form part of such developments, but this will require a strong degree of support and advocacy from the key institutional and professional stakeholders – work that is yet to be pursued.

At local level, there is a need to introduce opportunities for joint strategies and service level agreements between institutions, but achieving this will present considerable difficulties.

Appropriate use of the foster care legal framework, which provides for professional foster care in cases of children with behavioural difficulties, would be a positive development. Likewise, adoption of a uniform financial standard, scheduled for introduction at the end of 2015, and enabling foster care to become a state-delegated social service, are in the pipeline and will enable municipalities to develop types of foster care that reflect patterns of local need in their communities. This will allow for the piloting of intensive foster care. The difficulties stem from the lack of clear mechanisms and culture at the local level of inter-departmental and inter-agency co-operation, stemming from an excessive centralisation in decision-making.
Alternatives to custody

Piloting intensive foster care

It would be good for initial pilot programmes to be based in areas with the greatest local need for the service and where there are professional networks willing to try out innovative practice. These programmes need to start with adolescents who have mild to moderately serious criminal involvement rather than starting with the most high-risk children. Decisions regarding a young person’s inclusion in the programme should be based on comprehensive assessment of their needs, his/her active participation in the decision-making, and the availability of foster families who have been trained and prepared and are willing to offer a welcoming home to such a child. It would also be beneficial to build the pilots on the experience of service providers who have had placements of adolescents including children in conflict with the law (for example, by consulting them via focus groups), using “what works” in terms of best practice and ensuring good levels of support services for the foster families involved.

Key partners

The key partners in piloting new programmes will need to include local authorities, the child protection system, the youth justice system and social services providers. Among the latter an important resource will be those NGOs which, as stated earlier, are already piloting specialised social services for children in conflict with the law, in particular UNICEF Bulgaria, which is undertaking a pilot project for the development of specialised services that include intensive foster care.

Capacity building

Our research data from the Alternatives to Custody Project revealed that both professionals and foster families envisaged that intensive foster care could be best introduced through a process whereby foster families from the pool of already approved foster carers would be recruited to take on this more specialised role, provided they were assured that funds were available for the additional training and for the social work/professional and financial support required by taking on these additional responsibilities. They would also need guarantees that they would be working together with other professional services, measures and activities around the young person. This additional training should build on existing provisions for specialising in foster care for adolescents provided for in the current legislation but which is not widespread in practice.

The opportunity to develop a specialist focus as a carer can be built into the recruitment and evaluation stage; recruitment panels should be joined by representatives of the justice system. Specific quality standards for specialised intensive foster care can be set out in an addendum to existing foster care standards.

There is also a need for the training of multidisciplinary teams; research shows that, without a commitment to joint training, each of the different components of the “system” around the child may be insufficiently informed about the legal framework, structures, decision-making options, policies or services of other parts of the system to ensure an adequate level of mutual understanding and collaboration. It is all too common for each system to only know itself.
Requirements for service implementation

According to the Ordinance\(^3\) in Article 5, *The Committee on the Child* from Article 20 of the CPA has the task of determining the needs for a ‘fostering social service in its respective municipality and planning a municipal programme for providing types and number of foster families needed in the municipality’. According to the methodology for the provision of “foster care”, a municipality can provide this social service. Other providers may be the Social Assistance Directorate, independent providers registered according to commercial law and legal bodies licensed under Article 43b of the CPA. Organisations with the status of social service providers will need to obtain a licence from the SACP and registration with the Agency for Social Support to have the right to provide a “foster care” service.

The provisions of the *Ordinance on the Conditions and Procedure for Application, Selection and Approval of Foster Families and Placement of Children therein* also offer an opportunity for the participation of civil society organisations in the process of training, assessment, consultation and support of foster families. The regulatory framework still does not allow these organisations to conduct their own recruitment and selection of foster families or to place children. Foster care may be provided by a community support centre, as long as that particular service is part of the centre’s service capacity. So far, foster care does not have its own financial standard. There is a commitment by the ASA to establish foster care as a social service with a separate financial standard by the end of 2015, which will enable foster care providers to recruit and sign contracts with foster families. This will give more flexibility and allow for the recruitment and training of foster families for children in conflict with the law, based on local needs.

Management and quality assurance – adoption of national standards, criteria and monitoring and control indicators

An amendment to the foster care regulations is needed to enable the introduction of specialised intensive foster care for adolescents at high risk.

Child-focused standards

Changes should be aimed at the identification of criteria and indicators focused on the attitude towards the child, i.e. adoption of standards for good-enough treatment of adolescents at high risk. Foster carers of adolescents in conflict with the law should be able to:

- take account of the significance of the child’s individual development and personal history and any experience of trauma, and the impact these factors will have on the child’s level of personal difficulties and social problems;
- develop an understanding of the behaviour underlying conflict with the law, a capacity for empathy and attunement, and a focus on the child’s welfare;
- understand intensive support as aiming to build children’s self-esteem, resilience and sense of

\(^3\) *Ordinance on the Conditions and Procedure for Application, Selection and Approval of Foster Families and Placement of Children therein*, adopted with a Decision of the Council of Ministers # 314 from 2006, amended and supplemented on 4 September 2012.
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efficacy, by providing supervision, support, mentoring, behaviour management, diversion from antisocial peers, integration into school and opportunities for leisure activities.

**Standards focused on the providers of this social service**

The specialised social services need to rest on the principle of “good enough” care, i.e. a set of principles and criteria covering the entire work of professionals, informed by a “child-friendly justice” philosophy towards children in conflict with the law and their parents.

These standards should promote the successful application of the basic principles of juvenile justice reform through the implementation of intensive programmes, including intensive foster care. They should cover the recruitment, training and support for foster families, teamwork and related matters.

**Understanding costs**

With the introduction of professional foster care in 2007, foster families started receiving financial payments that covered both an allowance for the needs and costs of children placed and also a reward element. The monthly allowance per child placed in foster care is determined in the legal framework (Implementing Regulations for the CPA, Article 50, para 3) as follows:

- aged under 7 – three times the amount of the guaranteed minimum income (2013);
- aged 7–14 – 3.5 times the amount of the guaranteed minimum income (2013);
- aged 14–18 (or if s/he studies, until graduating from secondary school, but not after the age of 20) – four times the amount of the guaranteed minimum income (2013).

Remuneration for professional foster families (Article 57 of the Implementing Regulations for the CPA, September 2013) is as follows:

- with one foster child – 150 per cent of the minimal monthly wage;
- with two foster children – 160 per cent of the minimal monthly wage;
- with three or more foster children – 170 per cent of the minimal monthly wage.

According to the General Directorate on “Execution of Penalties”, the monthly maintenance costs of a young person in custody are approximately BGN 700. The monthly maintenance costs per child placed in either type of boarding school (CBS or SEBS) are approximately BGN 600. However, neither the physical environment nor the quality of care within these institutional settings can be compared with the quality of what foster care can offer. The additional price paid by society for enabling a child in conflict with the law to receive the support and rehabilitative input of foster care, compared to the more isolating environment of the restrictions of custodial and institutional care, at first sight seems far from small. However, if seen from the perspective of avoiding the negative aspects of isolation and reducing the longer-term costs that will be incurred when a young person struggles to achieve positive reintegration into the community and public life, then one might argue that for children in conflict with the law to be placed in foster care the social and economic price is lower and the public benefit higher.
Raising awareness

It is necessary to take steps to change attitudes and raise awareness among policy-makers concerning future ways forward for developing the juvenile justice system. Such actions should be targeted at the professional community and the public. It is noteworthy that the key messages concerning children in conflict with the law are still mostly negative. These children are regarded in the main as dangerous, with a high degree of mistrust towards them from the public. It is important that the representatives of the policy-making authorities and bodies understand the case for the regulatory changes needed to advance reform in juvenile justice, and also the need to introduce a new structure for developing and implementing juvenile justice in Bulgaria. As the research shows, an important initial step will be to radically improve mutual knowledge and understanding between, on the one hand, child protection and social services systems, and on the other, the juvenile justice system. A more integrated approach on the part of these various systems will be vital towards supporting the foster families themselves.

Next, it is important to improve the awareness that children and their birth families have about the rights of children in conflict with the law, about the different alternatives to institutional care when they become available, and to convince them that foster care is really a means of sharing parental functions and not a replacement for the birth family.

Regulatory changes needed

- Establishing a single competent authority for making decisions regarding children – Children's Court

All legal procedures and court decisions related to children in Bulgaria need amendment to ensure that they better guarantee the rights and best interests of the child. At present, they are problematic both in terms of their substance, i.e. how “child-friendly” they are, and the degree to which they can be said to guarantee the interests of the child. These problems could be resolved with the creation of a uniform procedure for children by means of a Children’s Court.

- Reviewing and guaranteeing the rights of all children in all legal procedures

It is important here to review both procedures in place prior to starting pre-trial proceedings and the pre-trial proceedings themselves. Provisions still favour the interests of the police and prosecution rather than the interests of the child. This is especially true for children at risk and children in alternative care, where it is not clear who assumes parental functions and whom the investigation authorities are obliged to inform when they need to carry out certain investigative or procedural activities. Changes and clarity are required to establish:

1. the mandatory introduction of child-friendly procedures for all children;
2. clarity about who should be informed, when and how, when checks need to be made and a child needs be interviewed/formally questioned;
3. whether the child or parent is entitled to refuse to co-operate with any meetings;
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4. who will accompany the child as an appropriate adult when the child is detained or being interviewed by law-enforcement procedures authorities, etc.

- Changes in CPA and IRCPA, in the Law on the Ministry of Interior, to introduce clear mechanisms governing the relationship between the police and prosecution office on the one hand, and the system for child protection and social services for children at risk on the other

Changes are required in the CPA and IRCPA, in the Law on the Ministry of Interior and in the Criminal Procedure Code for:

- introducing compulsory individual assessment for a child at high risk, which should be multi-agency and multi-disciplinary and should include, where necessary, measures for support and protection, restrictions and restorative justice. For children up to 14, the intervention shall be led by the child protection system and for children over 14, by the Children’s Court;
- introducing amendments to the CPA and the Social Assistance Act (SAA) for creating specialised services for children at high risk, including children in conflict with the law;
- the option for diversion from criminal justice at the stage of pre-trial proceedings, and introducing Family Group Conferences as an alternative for prosecutors to launching court proceedings, under Article 24 (para 1, sub-para 8) of the Criminal Procedure Code;
- adding to remand orders, CPC Article 386 (para 1, sub-para 1), the option of foster carer, and in sub-para 2, replacing “administration of the educational establishment” with “under the supervision of a director of social service”.
- introducing the option of diversion from criminal justice at court level and a use of alternatives, such as Family Group Conferences, mediation, and referring to specialised social services, for example, by amending Article 61 of the Criminal Code;
- changes in the CPA and IRCPA to introduce guarantees for the actual application of Article 230, Execution of Penalties Act.

New structures in the justice system

The following changes to the justice system need to implemented:

- establishment of the Juvenile Justice Centre as a structure of the Ministry of Justice, General Directorate “Execution of Penalties”, which should take over the supervision and implementation of remand orders, including community-based orders and the implementation of sentences for underage persons, as well as liaison with social services after serving the sentence;
- introduction of a compulsory standard for the work of all professionals, working with children, including a set of compulsory competences for guaranteeing the rights of the child and their best interests;
introduction of a standard for the experts, providing services to the juvenile justice system – governing appropriate adult assistance, interrogation, expertise, etc.;

introduction of measures for improving the skills of those working in the justice system, the child protection system, and the system for provision of social services, in terms of quality and professionalism. This problem may be resolved with the development of quality standards for the professions of psychologist, social worker, educator, social assistant and social pedagogue.

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EFFORTS TO ESTABLISH COMMUNITY- AND FAMILY-BASED ALTERNATIVES FOR CHILDREN IN DIFFERENT FORMS OF CARE

A POLICY OVERVIEW – HUNGARY

Maria Herczog

International instruments and their implementation in Hungarian child protection and juvenile justice systems

The United Nations Convention on the Rights of the Child (UNCRC) was ratified by Hungary in 1991 and subsequently became incorporated into domestic legislation. The Child Protection Act came into force in November 1997. Its main aim, in compliance with the UNCRC, is to fulfil the best interests of children and promote their protection and well-being. The normative framework seeks to ensure the well-being and protection of children from violence, exploitation, abuse, neglect, trafficking, child labour and child separation. According to the law, the separation of children from their biological families should be considered only as a last resort. Instead, efforts have to be made to provide services and other interventions, with preventive and early interventions being the main priority. Families and children need to be protected and provided with services and support.

The United Nation’s approach to justice for children includes international norms and standards as well as guiding principles that must be applied by member States. As stated in the Secretary General’s Guidance Note (2008), the UN specifically aims at ensuring full application of international norms and standards for all children who come into contact with justice and related systems as victims, witnesses and alleged offenders. In 2010, the Council of Europe adopted guidelines on child-friendly justice, which are based on similar principles and goals.

The best interests of children are not consistently met in Hungary, in terms of some groups of children experiencing different forms of discrimination. In particular, the application of the concept of “child-friendly justice” is not applied as fully to children who are prosecuted for offences, or who act as witnesses, as it is to children who are seen as victims of crime.

The UN Guidelines for the Alternative Care for Children (2010) adopted by the UN General Assembly does not contain provisions relating to children who have committed offences. This is also the case in respect of the Moving Forward handbook for the implementation of the Guidelines (CELCIS, 2013), although the latter refers to the Council of Europe Committee of Ministers’ guidelines for child-friendly justice (2010).


A brief overview of the Hungarian child protection and juvenile justice system for children with challenging behaviour and children in conflict with the law

Scope

In 2011, the population of Hungary was 9,937,628, of whom 20.6 per cent were children under 18 years of age. An estimated 18,464 children were living in public care (10.5 per 1,000 children). This was the highest number of children in care since the year 2000, despite a decrease in the size of the child population across the same period. In addition, there were 3,000 young persons (over the age of 18) in after care. Today, 52 per cent of children in care are over 12 years of age, many of them living in group homes and institutions, while younger children are generally placed in foster care. Sixty per cent (12,600) of the children in care are living with foster families (of which there are 5,546).

In 2012, 190,564 children (108.4 per 1,000 of corresponding age) (Hungarian Central Statistical Office, 2013, Table 5.1) were registered as “at risk” by guardianship authorities, and 25,755 (14.7 per 1,000 of corresponding age) (Hungarian Central Statistical Office, 2013, Table 5.2) were “taken into protection”, registered on the child protection register by the regional guardianship offices.

The categories used for “at risk” and “taken into protection” are not well defined and standardised. There are variations in the ways that different authorities interpret and apply these terms, which means that comparisons can only be made with caution. In addition, there are many children living in deprivation and poverty in Hungary, whose needs have not been detected or treated. One-third of the country’s children are poor and 43 per cent are at risk of poverty and social exclusion.

In 2012, 10,056 14- to 18-year-old children (2.34% of all 14- to 18-year-olds) were identified as having committed offences. These children comprised 10.03 per cent of all persons committing crimes in Hungary; 82.4 per cent of the perpetrators were boys. This was the lowest recorded number of young people in conflict with the law for 10 years. Three-quarters of them were living in two-parent families. Two-thirds of the crimes committed were against property; 91.3 per cent of the children were first-time offenders; 45.38 per cent were referred to the courts; and 0.5 per cent were arrested but freed later while 0.3 per cent remained in pre-trial detention (Chief Prosecutor’s Office, 2013).

Just over 30 per cent of the young people out of the 10,056 children identified as having committed offences were sentenced to imprisonment. However, two-thirds of the sentences were suspended and probation provisions were made, while 5.9 per cent of the 10,056 children were sentenced to a minimum of two years in correction facilities. Just over 10 per cent of the 10,056 offending children were using substances at the time the crime was committed.

There are no data available about the number of restorative justice measures taken, or their outcomes, despite legislation having been in place since 2006. Probation officers, who are entitled to conduct victim-offender mediation, have spent six per cent of their time undertaking restorative activities with children aged 14 to 18 who had committed offences.

3 Központi Statisztikai Hivatal: www.ksh.hu/nepszamlalas/tablak_teruleti_00
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This demonstrates the small number of young people in this age group who are engaged with the probation system.

Of 2,604 children under 14 years (the age of criminal responsibility in Hungary), 0.19 per cent of all under 14s committed crimes in 2012. This is the lowest number of children committing crimes for the past 10 years; 40.4 per cent of them committed their crimes alone, while 35.6 per cent did so with other children (11.9% with children over 14), three per cent with an adult and nine per cent with others not in these groups. Out of the 2,604 children, 20.16 per cent were under 10 years of age, 14.29 per cent were 11 years old, 25 per cent were 12 years old and 40.55 per cent were 13 or 14.

Just over 1,000 (38.5%) of the children under 14 who committed crimes came from the three poorest of Hungary’s 20 counties, thereby suggesting an interrelation between socio-economic deprivation, social exclusion and criminal behaviour.

A total of 972 children under the age of 18 living in public care were suspected of committing crime, with 285 of them having been referred to the care system due to offences committed in 2012.

Children under 12–14

In Hungary, the definition of children is in compliance with the UNCRC, which cites that every human being from birth until 18 years of age is a child, though there are different categories depending on different services, eligibility, criminal responsibility, etc. Compulsory school age was decreased from 18 to 16 in 2012, while the age of criminal responsibility has been 14 since 1961 – with the exception of severe offences (e.g. violent robbery or murder) for which it was reduced to 12 in 2013.

Police investigations are required to be closed in all cases where the offender is under 14 years old, apart from some instances of extremely severe crimes committed by children over 12. Following an optional and, in principle, child-friendly interrogation, the police refer the children to the local child welfare services and the district guardianship office.

According to the Child Protection Act (1997), the guardianship office can apply the following administrative measures in respect of children in conflict with the law:

- **Placing the child on the protection register**: the guardianship office takes this step based on the report of the local child welfare service. This obliges the family and the child to cooperate with the local case worker and follow the agreed protective measures.
- **Temporary (emergency) placement**: the guardianship office, the district notary, the police, the prosecutor, the court and the correctional facilities may initiate a temporary placement if the child’s behaviour is deemed to be endangering others.
- **Placement in care**: the guardianship office may order the placement of a child in public care if the child is considered to be at risk in the family environment, or if the child’s developmental needs are not being met by the parents and/or due to the child’s behaviour. Children who have committed offences can be placed in foster care, but it rarely happens as they are usually referred to general or specialised children’s homes.

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4 évi XXXI. Törvény a gyermekvédelmi és a gyámügyi igazgatásról, www.ndi-szip.hu/Controls/DownloadEDoc.aspx?attId=469ce58c-8f33-494a-b69e-3b4435c0e12e
Efforts to establish community- and family-based alternatives: A policy overview – Hungary

Educational supervision: deprivation of freedom is only legally permissible in specialised semi-closed children's homes. Such placements are based on the decision of the home's director and the permission of the guardianship office. This may arise in cases where the child’s health or psychological status is directly threatening others or her/his own safety.

Children over 14 years of age

If the perpetrator of a crime is older than 14 (or 12 in special cases, as above), his or her case is handled by the justice system, depending on the seriousness of the offence. The Criminal Code does not specifically mention any form of foster care or community-based care as an alternative to custody: juvenile offenders cannot be placed into foster families if sentenced to custody.

The police should inform the child welfare service and the local, regional guardianship office in all cases when the young offender is older than 12–14, but at the same time the police, the court and the prosecutor also have the right immediately to order the custody of the child for up to 72 hours. If there is a risk of escape or reoffending, the court may, in addition, order pre-trial detention for juveniles. Juvenile correctional facilities or prisons for young offenders can accommodate children for the duration of the pre-trial detention. However, in practice children over 14 are sometimes placed in adult prisons, albeit separated from adults. Children between 12 and 14 can only be placed in correctional facilities during the pre-trial and sentencing period, whereas children over 14, in some cases, are placed in detention in prison, again separated from adults. Investigations by the Ombudsman have led to many accusations that conditions are not meeting the minimum requirements for children.

According to the Criminal Code, remanding children in custody can only be used as a measure of last resort and for the shortest appropriate period of time.

Imprisonment is the most severe form of punishment. The court can also order a reprimand, probation, a fine, community work (for children over 16) and “education in a correction facility”. The use of sanctions has not been effective as the children sentenced for probation under the supervision of probation officers are provided with very limited opportunities for rehabilitation, such as education, social-emotional support, family strengthening, housing and employment. Similarly, children do not receive adequate services in correction facilities or in the juvenile prison system. This is problematic, as many suffer from developmental delays and have complex needs.

As in many other countries, the outcomes, effectiveness and efficiency of the child protection and juvenile justice systems are very poor. Reoffending, exclusion and marginalisation are common, although information about re offending rates is limited owing to data protection legislation. Available statistics report that 13.9 per cent of young offenders are reoffending once, 9.2 per cent twice and 2 per cent more frequently. These data only refer to those

5 www.ajbh.hu/documents/10180/125038/Dr+Fogarassy+Edit++A+fialalkorúak+fogva+tartási+kőrülményeinek+ombudsmani+vizsgálata/2a76adda-467d-43e0–9673-fe983beff63d;jsessionid=B6960A55F0AEB33C44EAF01C9C1ADE01?version=1.1; www.halas.net/index.php?view=article&catid=37%3Abelfoeld&id=4809&format=pdf&option=com_content
Alternatives to custody

14–18-year-olds who are committing a repeated offence during this age span.\(^6\) There is no information on adult offenders who have committed offences as children. There is, in practice, no availability of holistic, interagency, cross-sector strategies or programmes. The occurrence of reoffending and reintegration problems is seen to stem from individual failings on the part of the children and their families rather than deficiencies in the system.

The concerns and recommendations of the UNCRC Committee in September 2014 (pp. 12–13) identify the problems and propose possible solutions. Concerning the administration of juvenile justice, it says:

1. The Committee is concerned about:
   (a) Suspension of juvenile courts and transfer of cases concerning children in conflict with the law to the courts of general jurisdiction;
   (b) Lowering of the age of criminal responsibility from 14 to 12 years for a number of offences;
   (c) Lengthy term of pre-trial detention of children, including at the age of 12 years, which may take up to 1 year;
   (d) Children sentenced to deprivation of liberty for committing petty crimes, including in situations where they are unable to pay fines;
   (e) Low number of cases where restorative justice has been applied; and
   (f) Lack of psychologists provided to children in conflict with the law and lack of measures to reintegrate such children into the society.

2. The Committee urges the State party to bring its juvenile justice system fully into line with the Convention, in particular Articles 37, 39 and 40, as well as with other relevant Standards and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice. In particular, the Committee urges the State party to:
   (a) Reinstate the juvenile courts with judges who have undergone a special training;
   (b) Take measures to increase the age of criminal responsibility from 12 years back to 14 years even for the most serious crimes;
   (c) Ensure that detention of children is used only as a measure of last resort and for the shortest possible time;
   (d) Abolish the practice of sentencing children to prison terms for petty crimes, in particular by eradicating the practice of converting fines to prison terms;
   (e) Take measures to ensure a wide application of restorative justice in cases involving juvenile offenders; and
   (f) Increase the number of psychologists available for children in conflict with the law and provide reintegration measures based on individual needs of each child.

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3. **To that effect, the Committee recommends that the State party make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.**

These issues are also mentioned in the concluding observations of the UNCRC Committee (2014, p. 8, paras 38–39).

**Foster care in Hungary**

The role of foster carers is enshrined in the Child Protection Act, Article 54 (Act No. XXXI 1997):

*The foster carer may be a capable person of legal age and with a clean record, who has successfully participated in a training specified in separate legal regulation and based upon his or her personality and conditions, is qualified to ensure the child's balanced development as well as to assist the child to return to his or her family.*

According to this same Article, in order to qualify foster carers must:

- be older than 24 years of age;
- be capable;
- not be under trusteeship due to incapacity;
- have a clean criminal record;
- be no less than 18 and no more than 50 years older than the children in their care;
- have a personality, health status and environment suitable for fostering a child, which will help nurture the child's balanced development as well as assist him or her to return to his or her family;
- have successfully participated in training (specified in separate legal regulation).

A specialised professional foster carer is a person who meets the qualification criteria and is able to ensure the balanced development of a child with behavioural or learning difficulties, or issues involving substance misuse or requiring special care due to other circumstances. They must also be able to help support the child to return to his or her family. Although not explicitly mentioned, it is clear that such carers would be able to provide specialised care for children who are offenders or otherwise in conflict with the law.

In Hungary, foster care is viewed as providing substitute parenting and it is often the case that efforts are not made to ensure ongoing relationships between children and their families and/or to provide support for reunification and reintegration. Birth parents are often viewed as blameworthy, even among those caseworkers whose primary responsibility is to support the reunification and reintegration of children. In addition, foster carers do not always receive appropriate support, nor are they equipped with the necessary knowledge and skills. Often they are not informed about the background and history of the children placed in their care, as reported by the Ombudsman’s investigation into foster care in Hungary (AJOB Programfüzetek, 2011).

At the same time, research conducted on children in conflict with the law and their families has shown that children are blamed by the public and often by professionals themselves (Herczog and Gyurkó, 2007); evidence of everyday practice at vocational training courses for
professionals working in the child welfare and child protection system indicates that insufficient account is taken of children’s past life experiences or traumas. Schools in particular tend not to be welcoming and understanding of fostered children despite their past experiences, such as rejection, neglect and a lack of attention and nurturing.

Foster care has been traditionally used as a placement for “easier” children while those with severe problems and/or antisocial behaviour have remained in institutions (Herczog, 2014). Children with more complex problems, e.g. disabled children and Roma children, are less often placed in foster care, partly due to a lack of acceptance of them by foster families. This situation might be helped by the provision of better support to foster families, perhaps incorporating greater remuneration. Another challenge is the requirement that there be regular contact between fostered children and their birth families. Foster carers often refuse or find it difficult to meet the family of origin and to take children to the designated meeting places. They sometimes doubt the loyalty and affection of the children in their care who have a regular and close relationship with their parents. These challenges can also be tackled by providing more support and supervision to foster families, to help them to understand the needs and best interests of children in their care.

Given a strong desire by the Government to introduce more severe forms of punishment (as indicated by the UNCRC Committee (2014) in its concluding observations for Hungary), it is difficult at the present time to convince politicians and policymakers to provide foster care for children in conflict with the law. With the financial support of the EU, a new correctional facility for 108 12- to 18-year-olds is being built currently. The aim of this new institution, which will have 125 staff members, is to provide additional accommodation for boys, as it is anticipated that there will be a greater need for this type of provision (for sentenced children and those in pre-trial detention) (see Operativ Program, 2013). In previous years, the number of children placed in such facilities has been stable.

To date, there are no standards of foster care quality, nor are there specialist trained social workers or other helping professionals, such as teachers, to properly support or supervise foster carers.

Recent legislative and policy changes to improve child protection and juvenile justice systems

Child welfare and protection

Since 2010, the child protection system has become more centralised and nationalised, with the modification of legislation in 2013 resulting in a period of transition that reflects the direction of current government policy. Regional child protection services, such as guardianship offices, still exist in the 20 regions (with over 3,000 municipalities), but are now in charge of the operational part of the local child protection system, which has increased centralisation.

The aim of the modified Children’s Act is to deinstitutionalise children under the age of 12 by the end of 2016. Since January 2013, under the direction of the Directorate General for Social and Child Protection, all residential and group homes have been nationalised. The restructuring efforts affected 40 social and 137 child protection institutions throughout the
country. Church- and NGO-run services have to be licensed by the government office and their operation is now based on service contracts. The reform has created uncertainty and made longer-term planning for non-state service providers difficult as service agreements are liable to change and there is, as yet, no long-term, transparent strategy. The 2012 law that nationalised out-of-home services also includes, at least in principle, significant provisions relating to deinstitutionalisation. The main focus is on placing children into foster families rather than institutions. However, there is no emphasis on preventive, family-strengthening efforts, or on the reunification of children with their birth families. The post-2008 economic crisis and general lack of awareness of the growing difficulties faced by families and service providers has led to an unforeseen increase in the number of children referred to the public care system. This, in turn, has had an adverse effect on achieving the aim of ensuring that all children under 12 are placed in foster care rather than in institutions. Problems include a shortage of foster carers, decreased budgets for residential homes and local services, an increase in family poverty and a growth in the number of children in need.

With effect from January 2014, the new provisions of the Child Protection Law systems do not permit the placement of children under 12 in residential homes (this arises from an amendment to Article 78). Children with disabilities and large sibling groups may still be placed in institutions. Children with complex needs, such as young offenders, are not specifically mentioned, and no changes have been made in relation to the resourcing of the institutions in which they are placed. According to the Minister of Human Resources, the new system is expected to be 60 per cent cheaper. The changes are not underpinned by measures such as quality targets, prevention measures, or the strengthening of local universal or targeted services.\(^7\)

In Hungary, since 1997, the adapted version of the 28-hour PRIDE\(^9\) foster care training has been in place, supplemented by an additional 32 hours on legal, health, safety and administration-related information. So far, more than 6,000 foster carers have been trained and the same programme has been used for foster care supervisors, prospective adoptive parents and, in the absence of a specialised training programme for them, group home staff.

In 2014, this well-established and proven programme was replaced by a newly designed 500-hour foster carer education programme, financed by the EU. Even if they hold certificates from the earlier training, all foster carers, with the exception of those with over ten years’ previous experience and less than five years to retirement, have to attend this new course. There is controversy about the quality and focus of the new programme. Of the nine modules in its curriculum, one is focused on children with special needs but there is nothing to address the needs of children with antisocial behaviour and young offenders. This means that current and future foster carers will not be informed about the special needs of children


\(^8\) http://hvg.hu/itthon/20131104_Balog_12_evnel_kisebb_gyerek_nem_kerulhet/

\(^9\) PRIDE (Parent Resources for Information, Development, and Education) is a competency-based model of practice designed to strengthen the quality of family foster care and adoption services by developing and supporting foster and adoptive families who are willing, able and have the resources to meet the needs of traumatised children and their families. It is currently used in 30 US states, six Canadian provinces and 17 European countries.
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with severe behavioural problems or who have committed offences. According to reports from people who have either attended the new training or delivered it as trainers, and information in newspaper interviews and articles complaining about the new system (e.g. People’s Voice, 2013), the materials cannot be distributed, their content is not sufficiently accessible, and the website designed to inform the public does not contain any relevant information.

Recent research indicates that the educational attainment levels of foster carers are generally low. In 2009, 29 per cent of foster carers had only finished primary school, 48 per cent had a certificate showing they had completed vocational training, 13.1 per cent had a final secondary qualification and 9.8 per cent had experienced tertiary education (Veressné-Gönczi and Rákó, 2012).

Research on the situation of children with Roma backgrounds reveals that they face multiple discrimination, not only in wider society but also in the child protection system where they are over-represented (Herczog and Neményi, 2007; Neményi and Messing, 2007; European Roma Rights Centre, 2011). Outcomes suggest that they are more likely to enter the child protection system and less likely to be placed into foster family care (Anghel et al., 2013). Roma children are also estimated to be highly over-represented in the juvenile justice system. Detailed information is not available due to legal restrictions in Hungary that limit the collection of data related to ethnicity and religion, apart from material obtained from self-reporting.

Since the present government entered office in 2010, the approach to child protection has changed. As we have seen, there is now an increased focus on placing children in foster care rather than in institutions. However, the means of implementing this policy have not been put in place. Furthermore, aspects of the current policy appear to be contradictory. For example, the expectation that foster carers must first of all love children sits uneasily with the practice of contracting with them as employees. Similarly, they are regarded as professionals but because they only are paid at the level of the minimum wage, in order to be adequately remunerated they have to care for a high number of children. Also, most foster carers live in rural areas, in small settlements where they lack services, supervision and proper transportation. The lack of sufficient foster carers also creates pressure for those who are available to look after several children, despite the associated problems of poorer quality care and increased likelihood of placement breakdown. In the case of children with special needs and/or under the age of three, only two children may be placed in one family.

As of 1 January 2010, the Child Protection Act introduced the provision of a child protection administration fine to be applied in cases where child protection service providers are violating child rights or not fulfilling their obligations. However, the fines are minimal and the obligation to refer the professional charged with malpractice to some form of vocational

10 From a meeting with foster care trainers and foster parents for supervision, 7 October 2014, Budapest
training is at the discretion of the local authority where they are employed. In general, there is no accountability on the part of decision-makers or practitioners working with and for children, together with a growing tension from a lack of resources of all kinds and vigorous political and policy efforts to blame and shame the most needy, poor and deprived.12

The Act CCXI of 2011 on the Protection of Families,13 which entered into force on 1 January 2012, sets in its Article 13 the responsibilites of the state to support families in order to enable every child to be brought up in a family:

(1) Minors shall have the right to be brought up in a family environment of their own, which ensures their welfare and physical, mental, psychological and moral development.

(2) Minors shall have the right to receive assistance in being brought up in a family, developing their personality, averting any situation which endangers their development, and in adapting to society.

(3) Minors shall only be separated from their parents or other relatives for their own physical, psychical and mental development in the cases and manner defined by the relevant Act of Parliament.

(4) Minors shall not be separated from their families on the grounds of economic reasons only. In such cases the State shall be obliged to ensure the conditions of providing care to minors in a family as necessary.

(5) Minors separated from their families shall be reunited with their families as soon as possible if the statutory conditions are met. To this end, the State shall adopt all necessary measures.

Despite this legislation being in place, its implementation is only partial as factors such as the weakened position of local authorities and the reduction of their level of resources and powers limit their ability to support children in need and their families.

Within the changing child welfare and protection system, including the planned increase of fostering placements over institutional care, there is no reference to any will to support children with complex needs, children in conflict with the law and those in need of reintegration and rehabilitation. The legislation makes no specific reference to them and children with high needs are placed in residential homes without any rehabilitation or integration programmes. To enable children with complex needs to be placed in foster care would require special preparation and training of future carers, the provision of high-quality, diverse services, and supportive school and neighbourhood environments that encourage integration. The current processes for recruiting, selecting, preparing and supporting foster families do not provide the means by which services can be developed from the current, more traditional type of care into a wider, more professional service that properly assesses and meets the needs of individual children.


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Juvenile justice

The reduction (from 14 to 12) of the age of criminal responsibility for certain serious offences is also linked to the judge’s assessment of the child’s maturity, in terms of understanding the consequences of his or her actions. The assessment of this capability has not been defined or standardised, and there are no specially trained forensic experts to assist the court in this process.

Recently, in the county of Somogy, a 13-year-old child was taken into police custody for stealing 3,500 HUF (10 euros) from another child, and labelled as robbery. The boy had absconded from a children’s home when the offence occurred. It would have been helpful if the option of placing him – or any such child – into foster care had been available. Instead, the only possible recourse was to send him to a correctional facility. In this type of situation – and a high number of cases are related to petty offences such as crime against property – restorative measures, including therapeutic foster care, might well resolve some of the problems and contribute to the reintegration of the child. However, the current policy drivers in support of harsh punishment and the maintenance of “law and order” appear to be preventing such developments.

“Preventive probation” has been introduced in the framework of the juvenile justice system under the Ministry of Public Administration and Justice. Preventive probation officers are appointed by the Probation Office to support the child in conflict with the law once the guardianship office has put the child on the protection register due to this conflict. In principle, the new preventive probation measure provides links between the juvenile justice and child protection systems, although it also serves to increase the number of bodies responsible. In addition, the ambition of improving the quality of care is constrained by the lack of clear competencies, shared duties, practice standards and clear accountabilities. A further constraint is the high workload borne by probation officers, who are typically expected to handle at least 150–200 cases at any one time. All this will make it very difficult to implement the new arrangements to be introduced from 2014.

The law on petty offences is in contrast to the child-friendly justice approach. For offences considered to be less than a misdemeanour, the punishment can be 30 days’ detention, which, in aggravated cases can mean 45 days of detention for juveniles. No statistics on the number of children who are being detained are likely to be available until the end of 2015. The detention of minors for petty offences is in contradiction with both international and national legislation and the fact that the deprivation of liberty should be used only as a last resort. Section 106 of the new Criminal Code states that: ‘A measure or punishment involving

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15 Hungary, Act CCXLV of 2013 on Amendment of Certain Laws Connected to child protection (2013. évi CCXLV. törvény egyes törvényeknek a gyermekek védelme érdekében történő módosításáról), Article 11, available in Hungarian at: www.complex.hu/kzldat/t1300245.htm/t1300245.htm
the deprivation of liberty may only be applied if the aim of the measure or punishment can not otherwise be achieved.’

As a result of the amendment, on 1 July 2013, of the Act on Criminal Proceedings,\(^\text{18}\) in order to speed up the process, court proceedings against juveniles are conducted in city courts with overall jurisdiction rather than in special juvenile courts. A consequence has been an acceptance of the lack of specialised juvenile judges and the establishment of a separate juvenile court, both of which were required by the Concluding Observations of the UNCRC Committee (2006). This approach does not seem to have altered sentencing practice, as the number of sentences to correctional/custodial institutions has not increased substantially.

**Challenges**

In Hungary, as we have seen, the prospects for establishing alternatives to custody for young people in conflict with the law face a number of challenges. These can be summarised as follows:

1. There is no clear political will to implement measures that protect children and tackle the root causes of their problems.
2. There is no comprehensive child rights-based strategy in child welfare and protection and for children in conflict with the law.
3. Child protection services, including foster care, are not recognised as a potentially effective way of providing support for children with complex and special needs, including those with challenging behaviour and/or at risk of or in conflict with the law.
4. The referral system is inconsistent: in some cases, children are overlooked, while in others the system interferes too early without a proper assessment of the child’s and family’s needs.
5. The definitions and categories used are unclear: there are no quality standards and protocols of operation in place, with the effect that the assessment and decision-making processes, and subsequent interventions, are inconsistent.
6. There is a lack of monitoring, supervision, evaluation and outcome measurement, and there is only limited accountability at personal and institutional levels, in the health, education, child welfare and protection and court system, in relation to children.
7. There are no professional standards for operating foster care services, linked to which ongoing support and training are not provided.
8. The environment in which foster families live is often unsupportive of fostered children, including in terms of schools and a lack of support services.

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9. Due to factors such as resistance on the part of carers, physical distance and lack of transportation, it is often difficult to sustain contact for children with birth family members and friends.

10. Only limited efforts are made to prepare children for fostering or other care placements, to match children with carers and to inform foster carers about the background and experiences of the child being placed with them.

11. Half of the foster families are living in small settlements, which limits access to services and professionals to support them and the children they are tasked to look after.

12. There is no respite care or any other provision to help foster carers and children to have some “time out”, which would help to prevent placement breakdowns and “burn-out” among foster carers.

13. The insufficient understanding and use of the adapted looked after children (LACH) assessment and documentation system, introduced in 1998, is further weakening opportunities for, among other things, planning, co-operation, monitoring, outcome assessment and the adequate flow of information.

Next steps

Against this rather bleak background, we suggest a number of recommendations:

1. Policymakers and other professionals should be informed about the possible new directions of diversion, restorative justice and specialist foster care for children with challenging behaviour and in conflict with the law.

2. A pilot project would be needed to demonstrate a potential model for fostering children with challenging behaviour and in conflict with the law.

3. A detailed evaluation of the current system is needed, taking a multisectoral approach and working in consultation with experts to learn more about possible improvements, including cost-benefit and social return analyses.

4. Awareness-raising campaigns and other forms of advocacy are required to help acknowledge and make visible the advantages of the new model of foster care for all actors.

5. There needs to be ongoing international co-operation and exchange of experiences, ideas and practices, and comparative studies and systemic data gathering would be optimal.

Practical goals

These include:

1. Shifting the current “ad hoc”, incidental foster care practice to a children’s rights- and quality-based, planned, transparent, sustainable intervention package, continuously supported and regularly assessed by multi-agency co-operation, methodological papers and indicators.

2. Developing a clear methodology on matching procedure to be used by foster care agencies.

3. Making adequate payments to foster carers and providing ongoing professional support for foster carers and children in care.
4. Providing specialised training for foster carers working with children in conflict with the law as well as integrated vocational training materials and programmes for other associated professionals, law enforcement staff and legal experts, including judges, prosecutors, lawyers and guardianship officers.

5. Utilising the existing and developing new written procedures and national standards for guardianship officers, child protection agencies and juvenile justice bodies, on the assessment of needs of children in conflict with the law.

6. Ensuring that the opinion of the child is always taken into consideration regarding his or her placement into care.

7. Making available child- and user-friendly materials on juvenile justice proceedings for all actors.

8. Awareness raising on the importance of contact between children and their biological family and helping other professionals and foster carers to involve the family of origin in their work.

9. Carrying out outcome measurements on the different services for children with antisocial behaviour and children in conflict with the law.

**Listening to the views of children and families**

Achieving quality care for children and young people separated from their birth families, including alternatives to custody for those in conflict with the law, necessitates listening to those most directly affected. The children and families who were consulted as part of this project came up with their own recommendations:

1. Strengthen basic welfare provision in order to prevent family separation and early escalation of the criminalisation of children.

2. Provide sufficient support for birth families to increase their parenting skills.

3. Aim to “support” rather than “control” families and children at risk.

4. Ensure that schools and professionals working with children at risk or with challenging behaviour are inclusive, supportive and child friendly.

5. Truancy, dropping out of school, drug misuse and petty offences should not be seen as crimes and so should not be punished; instead, professional help should be made available for the children involved.


7. Ask and take into account the views of children and their families of origin through the proceedings of child protection and juvenile justice authorities.

8. Promote and encourage the relationship between foster carers and birth parents.

**Timeframe**

The recommended changes can only be fully achieved in the longer term, as they require strong political commitment, changes in the attitudes of policymakers and professionals, and
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re-allocation of available resources. Shifts in current attitudes, approaches, recruitment, assessment and preparation, support and supervision principles and practices are needed. This, in turn, relies on there being co-operation between the different actors and stakeholders and on the implementation of an integrated approach.

Success depends on well-targeted awareness raising at political and policy level, incorporating child rights-based restorative and non-punitive approaches. This needs to be supplemented by a public campaign focusing on children at risk of delinquency and the contribution of socio-economic and emotional difficulties in order to help everyone, including the general population, to understand the root causes of children’s problems and possible remedies.

Conclusion

In principle, children who have committed crimes (apart from the most severe cases, for which children can be tried from the age of 12) could be placed into foster care. There should be a change in the approach and attitude towards foster care and its use in providing rehabilitation for and reintegration of children, as part of an integrated restorative justice model for all offending children. This would also imply the modification of the Penal Code and rethinking of the links and co-operation between social, child protection, education, law enforcement and justice services, developing common standards, training and development of professionals, awareness raising and campaigns to demonstrate the much higher success rate (achieved in other countries) of restorative and educational as opposed to punitive approaches.
Table 1
The child’s journey through child welfare/child protection and juvenile systems

I
CHILD PROTECTION SYSTEM

MINISTRY OF HUMAN RESOURCES
(Education, Culture, Healthcare, Social Affairs and Labour)

Children under 14
(or 12 in special cases)

Local child welfare service

County child protection agency

Subregional “district” guardianship office

Administrative measures

Place the child on protection register

Out of home placement

Children’s home/Group home

Specialised Children’s home/Group home

Specialised foster carers

II
JUVENILE JUSTICE SYSTEM

MINISTRY OF PUBLIC ADMINISTRATION AND JUSTICE

Children older than 14
(or 12 in special cases)

Court – Judicial measures

Custody

Pre-trial arrest

Prison

Correction facility

Deprivation of liberty, imprisonment

Prison

Correction facility

Out of home placement

Children’s home/Group home

Specialised Children’s home/Group home

Specialised foster carers

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Introduction to the project’s qualitative research activity

The qualitative research summarised in this chapter is best understood if placed in the context of the several research-based inquiries we undertook. These are listed below.

Initial desktop studies by the four partner countries

These were completed at the outset of the Project. Focused on each of the four partner countries (Bulgaria, England, Hungary, Italy), these studies described and examined the legal frameworks for youth justice and fostering, how each youth justice system functioned, gave summaries of the demographics of young people in the youth justice system, and (where this information was available) provided any specific experience or outcome evaluations of remand and intensive fostering.

Preliminary targeted survey of 25 countries

At an early stage of our work we discussed the fact that the EC states were at quite varied stages in the development of their fostering services and in the availability of fostering options in the youth justice process. We thought that having clear updated information about this would help us to ensure that the materials we produce by the end of the project for our “protocol of intervention” would be as useful as possible. Therefore we asked the International Juvenile Justice Observatory (IJJO) to commission a team of subject matter experts in each EC country to answer a set of “filtering” questions that targeted the availability and scale of foster care services in each EC country, of resources for diversion, and whether alternative family care was available to the youth justice system. We shared the results of this survey with partners to the benefit of the next stages of our work.

Second survey of 22 countries

Building on the preliminary targeted survey, we then went on to explore in depth the current or potential role of foster care within juvenile justice, and obtain an up-to-date audit of the degree to which the requirements of “child-friendly justice” were being met in the country concerned. Each country expert was asked to analyse the main characteristics of the juvenile justice system of the country concerned: whether there were special laws or codes, and special legal institutions governing juvenile justice; the minimum age of criminal responsibility; the legal definitions of “child”, “youth” and “young person”; and the availability of restorative and diversionary approaches to youth offending. The experts were then asked to consider foster care and its legal framework in each country, and its use as an option within the juvenile justice system. The resulting set of reports is available at www.baaf.org.uk/young-fostercarers-law.

Stakeholder focus groups in the four partner countries

Our qualitative research commitment was to undertake at least 30 interviews with

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1 www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp
Overview of qualitative research undertaken with targeted focus groups

participants in England, Bulgaria, Hungary, and Italy, which were to include ‘five social workers, five social care directors, five foster carers, five birth family members, five criminal justice staff, five care-custody/custody experienced young people, and also five life stories per country’. The outcome was to be conveyed in four national reports of this qualitative research to be based on transcripts of the interviews. (The completed versions of these are now available online at www.baaaf.org.uk/young-fostercarers-law.) The goal underlying this commitment was to explore the role that specialist fostering schemes either were playing or could play, as alternatives to custody and in the promotion of child-friendly justice to meet the needs of young people in conflict with the law.

In favouring focus groups as our method we anticipated being able to capitalise on the knowledge, ideas, insights and goodwill of four carefully-recruited groups of key stakeholders in each partner country, by addressing a series of planned questions to them (see below).

This overview concentrates on presenting the results of the focus groups only, but the full details of the individual interviews are available at www.baaaf.org.uk/young-fostercarers-law.

Research method and data elaboration

Our commitment to an appropriate adaptation of grounded theory and a constant comparative method was actively embodied throughout the project’s work in a developing process of inspection and discussion of these emerging datasets across the course of a sequence of mutual learning events, hosted by each partner in turn, that proved central to making good progress. This process was embodied in the continuing conversation conducted with project partners, where we demonstrated that we were prepared to modify or broaden our initial categories, through ‘a repeated to and fro between different parts of our data, as our conclusions and recommendations gradually took shape.

Four focus groups in each partner country

At an additional Partners’ Meeting in London in December 2013, convened partly to debate and finalise our approach in more detail, we confirmed we would utilise focus groups for the stakeholder qualitative research. We would convene and recruit to four stakeholder focus groups in each partner country, composed as follows:

- **Group 1: High level institutional actors** – a judge or magistrate, a senior court system or youth justice official(s), a lawyer, a senior youth justice practitioner or manager, director of children’s services or other senior children’s services manager
- **Group 2: Foster carers and social workers/psychologists** – bringing together foster carers and their support staff, i.e. the professionals whose task is to support foster placements or the young people in placement

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4 For comment on “institutional actors” and institutions “as a non-deterministic context for action”, see www.bath.ac.uk/management/research/pdf/2009–07.pdf
Alternatives to custody

- **Group 3: Birth families of young people in conflict with the law** – we agreed it would be helpful to include families of young people who had been sentenced to a period in custody or otherwise institutionalised, and also families of young people whose experiences of conflict with the law resulted in other disposals in the youth justice system, so that their different experiences of “the system” could be explored and compared.

- **Group 4: Young people** – but it was recognised that there needed to be a flexible approach to this group’s composition, depending on the partner country’s system and research needs, and the age range in the group.

A common core set of questions was utilised, based on the UNCRC articles, to which each partner country was able to add country-specific questions.

We also aimed to undertake ‘five life stories per country’, as set out in our Project Description, and we agreed these could most appropriately be drawn from Groups 3 and 4, i.e. the groups involving the most vulnerable stakeholders and those who could contribute an authentic service user voice. The life stories were to be developed from one-to-one follow-up interviews with five young people or birth family members identified from those who attended Focus Groups 3 or 4 (see below), based on the evidence of their input to the groups and the potential for these individual “life story” personal narratives to illustrate key concerns of the project. We have summarised and quoted from individual interviews wherever these add significantly to the key messages from the focus groups.

Thus, a mixed methods approach was developed, combining a moderator-led focus group approach together with the option of one-to-one interviews.

**The reasons for the focus group method**

Focus groups were preferred as our primary method for the following reasons:

- They constitute a flexible research method, open to cross-checking and triangulation against the other sources of evidence.
- They are a cost-effective and efficient way of exploring the views of a wide range of stakeholders.
- Group interaction in focus groups may trigger thoughts and ideas among participants that may not occur during an individual interview, and the dynamics of the interaction allow exchange, refinement and re-evaluation of views.
- Focus groups enabled us to overcome some of the well-documented challenges of cross-national research, e.g. that the sense of some questions will change depending on the specific national or even local context. Therefore our use of moderators familiar with the specific country’s language and social, cultural and legal terms and concepts, meant that we could try to minimise cultural misunderstandings that others have highlighted as risks.

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Overview of qualitative research undertaken with targeted focus groups

Focus group outcomes

Italy

For a long time the ideal solution for children in care was thought to be placement in an institutional setting but Law 184/1983 changed this by promoting new forms of family and residential care, thereby increasing the number of foster care placements. Foster care is now well-recognised in Italy as an intervention to support a family in need, with the aim of the child's reunification with their family of origin. It may be consensual or judicial and the courts play an important role since around three-quarters of foster care placements (76%) are the result of judicial decree. The foster family takes responsibility for the child's support, educational and developmental needs.

Cultural factors, stemming from the special value placed on the birth family, continue to inhibit the development of fostering, including birth parents’ difficulty in accepting the idea of being separated from their children, even for a temporary period, because of the risk of stigma associated with parental failure; or in accepting the idea of sharing responsibility for the care of children with others; and a fear that fostering would result in the break-up of the family. Consequently, birth parents have been more comfortable with residential care rather than with consenting to a placement with an alternative and, as they may see it, “rival” family.

In 2008, of the 32,400 children placed out of their family, 16,800 were in foster care and 15,600 in residential facilities. However, 82 per cent of teenagers aged 14 to 17 are placed in residential settings and only 18 per cent in foster families, so the shortage of foster placements for teenagers is significant. Finally, the much-remarked spending inequalities between different Italian regions can result in the poorer regions having fewer resources to expand foster care (dell Valle et al, 2013; Bortone et al, 2015).

Key points from Focus Group 1 – High level institutional actors

While the group had a shared belief that foster care is an important resource because young people need to grow up in a family, it was recognised that fostering is not yet fulfilling the hopes of legislators, as it was conceived for children in need of temporary care, but has been used for children with longer-term care needs and to circumvent the obstacles of adoption. Moreover, fostering is beset by poor levels of training among the personnel involved, and by the difficulties in establishing networks among the services involved. Fundamentally, there is no real culture of fostering as a preventive measure (as opposed to its use as a de facto or pseudo adoption) as yet in Italy. As a result, the level of support available both to birth families and foster families – financial and psychological, together with responsive interventions at critical moments – remains inadequate.

This inadequate level of support means that foster families will struggle in stressful situations, e.g. in their relationship with children's families of origin where a fostering plan for the young person is being opposed, or where the young person may have been prepared for residential care rather than placement with a family. Such situations are best addressed by fostering plans jointly constructed with all parties. In addition, when proactive support for young people in fostering placements is offered in schools, the results can be significant, but currently such positive initiatives are the exception when they need to be the rule.
Alternatives to custody

Lastly, the group said that where a foster placement can be found near to the young person’s home/neighbourhood, thus avoiding the dislocations of a more impersonal and probably more distant residential placement, this can prove to be a very positive basis for work with the young person.

Key points from Focus Group 2 – an inter-disciplinary group of medical, legal and social work professionals

There is a need for carers to be prepared and trained; to receive good quality information on the child in advance to ensure an understanding of the child’s experience and behaviour patterns; and to have tools and strategies to call on to manage difficulties. Sometimes, however, foster families are left struggling with a “knowledge gap” about the young person joining their household and a need to know more of the child’s history.

The group emphasised the need to ensure that there is an educational and care plan tailored to the assessed needs of the young person, which is shared and owned by all parties. Professionals should also be attuned to foster carers’ motivations and expectations, to ensure better matching and tailored support.

Key points from Focus Group 3 – families of origin

These families felt that there should be greater recognition of children’s own capacity to develop an understanding of where they have gone wrong and to take responsibility for this, with due support. But opportunities for better outcomes could be missed because of delay in professional interventions and the lack of timely psychological support to birth families. They also felt that fuller involvement of families in planning for the young person was needed.

The group had mixed views about fostering. Some had little awareness of fostering or what it might offer for their children and, influenced by accounts in the mass media, saw it essentially as a service for asylum-seeking young people. Examples were also given of the lack of truly child-centred help from other professionals, e.g. lawyers who were more focused on advocating for the interests of the parent, their client, than the needs of the child.

Key points from Focus Group 4 – young people

Young people in the group said that too often they felt simply not listened to and not believed by the adult professional world. On hearing what specialist foster care might offer them, they expressed openness to the prospect of receiving help from foster families, and having their safety and education attended to. They also had positive comments to make about probation officers as providing a service that helps young people to grow and reflect.

Bulgaria

At the close of the communist era, Bulgaria was confronted with very high rates of children separated from their biological parents and one of the highest percentages of institutionalised children in Europe. There was a strong aspiration to improve care prospects but progress was inevitably very slow, with legal frameworks and state structures inadequate for the challenges of so many children in extreme need. NGO-led projects have slowly begun
Overview of qualitative research undertaken with targeted focus groups
to make a difference. From the limited data available, at the end of 2008, there were just under 200 children placed in foster care. By 2010, there were reports of 210 professional foster carers approved, and 42 voluntary foster families. However, recent evidence points to considerable expansion in foster carer numbers, with just over 1,000 children in foster care by 2012. Training and approval mechanisms are in place but a lack of well-defined standards and professionalism in the approval process are seen as deficiencies in need of remedy.

Foster carers are recruited by municipalities, by the Social Assistance Directorate, or by NGOs. New providers are required to be licensed and registered. With the introduction of professional foster care in 2007, foster families started receiving payments that covered both an allowance for the needs and costs of children placed, and also a reward element.

The laws governing youth crime are regarded as obsolete and in urgent need of modernisation. Currently they offer few legally practical possibilities of using foster care as an alternative to custody.

Key points from Focus Group 1 – High level/institutional actors

Two focus groups for high level/institutional actors were held – one in Shumen with nine participants, and a second in Sofia with 10.

The consensus in the groups was overwhelmingly positive about the value of fostering in the context of de-institutionalisation. However, there was very limited experience of foster care for adolescents.

In terms of how wider systems are structured, it was noted that there is no current linkage between systems for children at risk and children in conflict with the law: the latter currently have no access to social services and foster care is only available for children at risk and as a detention measure.

The educational system is in crisis and is in fact subject to widespread criticism, and functions particularly inadequately for children in conflict with the law. There is a need for attitude change, and legal and regulatory change, with changes to court practice to enable introduction of individualised and timely child assessments that are taken into account.

Key points from Focus Group 2 – foster carers

Carers were positive about the idea of specialist foster care and thought it a better option than institutional measures, but had little experience of the workings of the criminal justice system to date. However, they were conscious of societal prejudice against offering foster care to “delinquents”. As one carer said, ‘The question is how these children are perceived. If they’re seen as dangerous, then we don’t want them among us – that is the prevailing attitude in society.’ They felt that carers should be free (and not pressured) to voluntarily assume this additional role as a specialization, but would need additional training along with increased resources and remuneration as essential motivational factors.
Key points from interviews with biological parents

(Conducted as an alternative to a focus group)

The parents of two boys aged 16 and 15 years were interviewed. Their sons had been held in custody and were then placed at a “correctional home for underage persons” and attending a correctional boarding school.

Both parents were of Roma origin, without education or work. They were not registered with the Labour Bureau, nor receiving assistance from social services. They represented part of an “at-risk” social group that moves from small habitations to large cities, without a permanent address, subsisting via the trade in scrap metal and recyclables. Even though they are parents in need, they cannot benefit from any available support systems for financial aid, employment or housing assistance because of the lack of a registered permanent address in the city to which they have moved. Parents of children in conflict with the law in these circumstances are often, in effect, excluded from the social system and their needs not addressed.

They were not aware of foster care, conflating it with adoption. Even though the interviewer clarified the difference, their attitude was negative. The thought of having their children live in a family of strangers raised concerns. From their accounts, their attempts to get basic information about their children from the police and authorities in court had seemingly been rebuffed or ignored. They were not aware that help geared to developing their parenting skills, and to strengthening their capacity to support their children’s education might have been available (assuming they could have accessed it of course). Their idea of help was shaped by basic survival needs and they had little sense of a need to develop skills to raise and socially prepare their children, or set boundaries.

Key points from Focus Group 4 – young people in a correctional family

This young people’s group made clear the difficulties they were struggling with due to separation from their families, the scarcity of phone contact, and a sense of remoteness from familiar surroundings. Most had never attended school, had major problems with literacy, but were currently receiving some literacy training in the institution.

Although suspicious and lacking information about foster care, they became more positive when it was explained to them. After the nature of foster care and the role of the foster carer during intensive foster care were explained, a majority of the group (70%) declared that they would accept its terms and rules and would show co-operation, if there were incentives for good behaviour. The other 30 per cent said they would not abide by the rules but break them.

They were not fully aware of their rights and could not understand the judicial procedures to which they were subjected. Most said that they were afraid of appearing in court. One said, ‘The court doesn’t think about the people who did something wrong and treats them badly. The court is not a “friend” to people like us.’

When they leave the correctional facility, this group could be very vulnerable because of the lack of aftercare support.
Overview of qualitative research undertaken with targeted focus groups

**Hungary**

In Hungary, in 2011 an estimated 18,464 children were in public care (10.5 per 1,000 children): 52 per cent were over 12 years of age, with many of them living in group homes and institutions, while younger children were generally placed in foster care. Sixty per cent (12,600) of children in care were living with foster families (of which there are 5,546). Foster care is viewed as providing substitute parenting; however, insufficient efforts are made to ensure ongoing relationships between children and their families and support for reunification and reintegration where appropriate. Birth parents are often viewed as blameworthy, reportedly even among caseworkers whose work requires a non-judgmental framework.

Foster carers are not always equipped with the knowledge and skills they need, nor do they receive adequate support. It is as yet unclear whether a newly introduced 500-hour foster carer education programme will address this. Nor are they fully informed about the background and history of the children placed with them. Schools, in particular, tend not to be welcoming and understanding of fostered children. Foster care has been traditionally used as a placement for “easier” children while those with severe problems and/or antisocial behaviour have remained in institutions.

Children who are offenders can be placed in foster care, but this happens rarely, as they are usually referred to general or specialised children’s homes. Under the Criminal Code, young offenders cannot be placed in foster families if sentenced to custody.

The active policy thrust towards deinstitutionalisation since 2012 and ensuring that all children under 12 are placed in foster care rather than in institutions has had to contend with a number of problems, including a shortage of foster carers, reduced budgets for residential homes and local services, and growing numbers in poverty and of children in need.

**Key points from Focus Group 1 – High level/institutional actors**

This group of experienced specialists firstly drew attention to wider deficiencies in the system – the lack of preventive and early intervention services, the lack of awareness and support by schools regarding children at risk – before highlighting the lack of integrated connections between the child protection and youth justice systems, and the delay in cases being heard (between a year and 18 months) making it hard for children to establish a connection between the offence and the punishment.

The group called for development of high quality services for prevention and early intervention, family strengthening, and family placement. They saw a need for diversion and restorative justice models to be developed ahead of alternative care, in view of the damaging effect the current correctional facilities have on children aged 12 and over, with their poorly trained staff, harsh, unimaginative regimes devoid of quality standards, pervasive bullying cultures, and the stigma and social exclusion these children face on release. The current practice of 30 to 45 day spells in detention for juveniles committing only petty misdemeanours was also seen as further evidence of the negation of child-friendly justice.

It was agreed that improvement would depend on better understanding of children’s needs, and a necessary step towards this would be new programmes of integrated inter-disciplinary
training for all the professionals concerned. Other issues identified were the shortage of probation officers, and their excessively high caseloads, which stood in the way of their fulfilling the roles as well as they otherwise could.

These points having been emphasised, it was agreed that foster care could be developed if there was a clear regulatory context, especially for younger adolescent offenders who need stability and positive role models. The group made clear, however, that developing specialist foster care would be conditional on developing all the support services, training, supervision, and carer remuneration resources necessary for such a programme to be successful.

**Key points from Focus Group 2 – foster carers and social workers/psychologists**

Foster carers in the group could agree on the potential value of fostering for children in conflict with the law to counter past adversity and improve developmental prospects, but then strongly argued that training and supervision for foster carers needed to be of a higher quality to make extending fostering to this group of children a real possibility. In addition, high quality, accessible support services for children would need to be provided. Although they saw the labelling of children as carrying negative connotations, they felt that the reality was that children in conflict with the law had many special needs just as the children they were currently fostering had many special needs. Foster carers also questioned the current rule that carers could take up to three children with special needs, but up to six children not similarly labelled, and felt that foster household numbers had to be further limited to ensure good levels of care in the home.

The discussion turned to how schools currently discriminate against the enrolment of Roma children as well as against young people who are offenders. Awareness raising and real attitude change were needed at the level of local communities and schools where fostered children might be placed, to remedy these low levels of current understanding and acceptance, so that foster carers could count on better collaboration from education and other community-based services. Encouraging the recruitment of more Roma foster carers, and making more positive use of those Roma carers who were already available but not used, were also seen as priorities.

Foster carers also had to give due consideration to their own family’s needs, i.e. in assessing whether and how to accommodate challenging children, and indeed to ensure their own family’s safety. Better financial remuneration and more attention to placement preparation and matching would go some way to meeting these concerns.

**Key points from Focus Group 3 – birth families**

A key theme from this group was deep frustration and a sense of helplessness that efforts to obtain support at an early stage when their child was causing them concern had met with either service absence or refusal, just at a moment when the family felt that support services would have made a difference. Therefore, better preventive and early intervention services and family support services were seen as pivotal. Another observation was that truancy and school dropout rates should be seen as symptoms and their root causes explored, including discriminatory admissions practices and the low quality of schools’ responses to their children’s problems.
This lack of early support made it harder for families to accept the intervention of child protection services when problems had worsened, and when they felt they were being judged to be bad parents. Out of home care, they felt, should not be a form of punishment for parents and/or children, and should only be used as a last resort, and that families should also be kept better informed on all matters concerning professionals’ work and plans in relation to their children.

This group were uneasy about whether they knew enough to be quite convinced that foster care was a positive option for them. They felt that, without better support for families of origin, foster care would be undermining of family relationships. However, they also saw residential homes in an unflattering light. They were too tempting for many children, with shelter, food, clothing provided, but without there being obligations or requirements or the building of aspiration.

The group reiterated that families want to take care of their own children and receive adequate support to do this successfully, but that they were not equipped to resolve the problems. Professionals should be better able to recognise an offence as a sign, symptom, or cry for help, and neither they nor their children should be stigmatised for needing help.

**Key points from Focus Group 4 – young people**

The young people in this group felt angry about their predicament, and felt that no one was looking at the real causes of their difficulties, although their own struggles with education and communication skills hampered their ability to express themselves. However, they conveyed a feeling of having been denied help and the possibility of more positive life chances earlier on when it could have made a difference.

Now they wanted to go home, even if adults there were often abusive, rejecting or using them. They shared their experiences of being in care with one another and in the group, and this included some experiences of foster care. Foster care was something they regarded as an option only for younger teenagers, because they saw family life as essentially about boundaries and control, and now that they were teenagers, they said they would resent the controls foster carers need to impose. They saw residential homes as providing better opportunities (meaning less control, fewer obligations, but often better food and housing than at home). However, they vividly conveyed the bullying, and peer group systems of reward, threats and aggression marking their experience of life in children’s residential institutions, and their internalisation and acting out of this culture.

Exclusion and rejection led to dropping out from schools, with no plans for the future, and no ambition to work. Many of the group have been on medication (Ritalin, Rivotril) for many years, and lacking any type of individualised, structured, properly assessed help.

**England**

In England, meeting the needs of children who have suffered adverse parenting, abuse, and neglect, and the expansion of the role of fostering have been subject to considerable policy, research and service development activity. Central to the system are the Children Act 1989 and also the Children (Leaving Care) Act 2000.
Fostering is far and away the placement of choice now for children across all age ranges who need to come into care for shorter or longer periods. Of the 68,840 children who were in the care of local authorities on 31 March 2014, 75 per cent (51,340) were living with foster carers, and only 12 per cent were in residential settings, e.g. residential schools, therapeutic units, secure units, or other residential settings (www.baaf.org.uk/res/statengland). Despite this success, the Fostering Network estimates that there is an urgent need for 9,000 additional foster carers in the UK, a shortage that means that ‘children are too often being moved from home to home, are split up from their brothers and sisters, and have to live a long way from their family and friends’ (www.fostering.net/could-you-foster/who-needs-fostering/why-do-we-need-more-foster-carers#.VQLH446sUts).

But alongside expansion has grown concern about outcomes. The Government’s Quality Protects initiative in 1998 arose from the widely-perceived need to improve outcomes, and an increased emphasis was placed on local authorities as the “corporate parents” for children in need and those in the care system; the anxiety to improve the well-being of children emerging from the care system continues to be a constant driver for change.

In the safeguarding field, concerns about avoidable child deaths, and about whether child protection had become too over-bureaucratic in its procedures, led to the Munro Review of Child Protection (2011) and a rediscovery of the importance of social work practice. Youth justice and welfare had meanwhile pursued separate paths over the past 20 years, with youth offending teams operating as a distinct service under the aegis of the Youth Justice Board. This separation remains questionable to those who, like the present writer, see children in need and children who offend in a similar light in terms of their need for a reliable relationship with a caring adult.

**Key points from Focus Group 1 – High level/institutional actors**

There was agreement in the group that children who commit serious offences often have had neglectful and abusive experiences that are likely to affect their ability to relate well, their cognitive functioning, school ability and capacity for empathy. There was also shared concern about the ongoing costs of youth crime, and of the costs of young people not being in work or training as a result of conflict with the law. Therefore, enabling a child to develop a relationship with a trustworthy caregiver may be of significant therapeutic benefit in itself. Judges therefore would welcome having fostering options to prevent continued offending and improve lives. Fostering playing a greater role as an early intervention was also mooted as desirable.

But fostering programmes were not always offered by the local authorities as an alternative to custody, or places were limited, so it was not unwillingness by the courts but rather that specialised fostering services were not sufficiently available as an option at the point where they were needed that was restricting their use. If judges had these options involving suitable fostering programmes they would be used, and therefore a drive to develop and highlight specialist fostering schemes and increase judicial awareness of them would be helpful.

It was agreed that one fostering model did not necessarily fit every individual case, and more than one kind of model was needed, but also that, in wanting to explore and develop intensive and remand fostering, the group recognised the issue of ensuring adequate
funding as key to future progress. It was also agreed there should be a more strategic approach between the police, prosecutors and care providers in developing and promoting fostering schemes.

The great difficulties of ensuring that young offenders had good access to education were stressed. This ongoing infringement of their rights to education could be partially offset by widening the UK Virtual Head Teacher system (now in place for overseeing the education of all children in state care) to create a similar level of active educational advocacy and support for young people in conflict with the law.

There was concern that often the connections between child protection and youth offending services were not sufficiently “joined up” and holistic, and it was noted that conflict with the law, safeguarding issues and special needs are often co-present – hence the value of developmental/mental health screening and early diversion projects for young offenders and the positive results these schemes produce.

Finally, there was reflection on the age of criminal responsibility in England being 10 years. The consensus of this group was that there were good reasons why this should be raised, possibly to 14 or 15, and thus be better aligned with the European norm.

**Key points from Focus Group 2 – foster carers (summarising messages from two groups)**

The groups were strongly concerned with the malign effects of labelling. This was particularly evident regarding schooling – for example, accessing suitable educational resources has been the biggest challenge for foster carers in remand settings. Young people in conflict with the law are also vulnerable young people who have to cope with the stigma of being labelled as offenders. These young people should not be labelled. Stereotypes around the image people might have of “young offender” needed to be broken down and the process of gaining greater acceptance in the community for these young people had to be tackled urgently. There is also a need for young people to have mentors and positive role models, whether peer to peer or adult to young person, and good links with projects in the community and with assessments of need undertaken effectively were essential. The group felt that there is not enough information given about young people’s backgrounds. Having this information is crucial for carers for safeguarding and risk assessment.

Foster carers stressed that to manage increased pressures within a placement, e.g. if a child starts re-offending, there must be an urgent upgrading in the level of support around the placement from the foster care provider and the professional team around the child. Carers were in agreement that new carers should shadow experienced carers, through day trips, being in their home, and talking to young people on open days or training days. Other carers felt that visits to the court and visiting prison cells and learning about the justice system were also helpful preparation, as was the message for remand carers that there should be realism, patience, and no expectation of immediate results.

Support and remuneration packages need to be available for carers when young people want to remain in the placement (it was recognised this was not always practical but some flexibility was called for). They also felt that children’s services, court and youth offending services need to work together better.
Alternatives to custody

**Key points from Focus Group 3 – birth families**

Parents in the group described a range of feelings from guilt and shame to bewilderment, blame, numbness, and shock about what they could have done wrong for their children to be in conflict with the law, and these feelings were intensified if their child was in prison or an institution.

They were negative about custody, describing it as only placing their children with other children/young people who had also committed offences, and teaching them how to avoid court and learning “new things” (i.e. new illegal ideas). Some children had been attacked whilst in the institution. They talked about how hard it was to travel often to distant places to see their children, for a couple of hours, how hard it was to sleep the night before and how hard it was to leave their children.

All the parents stated that their children’s conflict with the law began at the start of secondary school, between the ages of 12 and 14. Parents felt that peer relationships had been an influential factor in their children coming into conflict with the law. By contrast, at home their children were mainly respectful but their attitude changed when in the company of friends.

They had mixed experiences of support from professionals but mainly (until they came into contact with the Youth Offending Service) they felt they had received little support and had not been made aware of the resources or support that could have been available to them. One parent said that if foster care meant her child going to school, achieving more, and being “OK”, then if there was no other alternative to custody they would agree to foster care, with a view that once they were settled they return home. They had tried to ask for this; it had not been an option. One parent did not want anyone else taking over her role and therefore preferred custody to fostering.

**Key points from Focus Group 4 – young people**

This was held in the project’s first year, to gather views from seven young people, all of whom had experience of both the care system and the youth justice system.

In general, the focus group participants were positive about their foster and residential care experiences. For these young people, security was linked to belonging, and belonging to connections. They recognised that “justice” needs them to be socially accountable but they also valued “care”, which recognises their welfare needs. None of the young people had experience of or were aware of specialist fostering schemes intended as alternatives to custody, but were generally welcoming of the philosophy of this approach.

The group was highly conscious of negative stereotypes about care experienced young people, and the need to project more positive messages. They highlighted the need for positive role models, and family connections, in sustaining a sense of well-being and building on interests and talents, and role models were also crucial to the development of trust. For most of the group, this came from a particular professional worker who seemed to have invested in them, and indeed this was demonstrated by those who accompanied each of them (only one group member came unaccompanied by a worker) and their constructive involvement in the group’s discussions. Generally they felt that positive role models and positive feedback were more likely to happen in a foster care setting.
Overview of qualitative research undertaken with targeted focus groups

All group members expressed views about the benefit of coming together to participate in the focus group but also of having the opportunity to meet other young people in positions similar to themselves.

To be honest, I was nervous about coming here today, cause I thought …is everyone else gonna tell their stories or what … but here is kinda like opening my eyes to how many kids in care actually need help and support from someone outside of it.

Conclusions

Although the answers each partner country gave to the questions we posed contained elements specific to that country’s history, culture and current needs, it was more remarkable how much the four sets of findings and recommendations had in common.

The high level/institutional actors were in agreement in all four countries that foster care was a service offering real benefits to the well-being of young people in conflict with the law, if developed well. While in each country the barriers to making further progress with specialist fostering were different – cultural and funding barriers stood out in Italy; policy, social structural and political constraints in Hungary; a legacy of institutional care and a disconnection between youth justice and child protection in Bulgaria; a lack of devolved funding and wholehearted policy drive in England – there was an appetite for change and for a dynamic and positive approach to the development of fostering for children in conflict with the law in all four countries.

All the foster carer groups (and the social work/psychology staff linked to them) were agreed on the intrinsic value of the relationship foster carers could offer, and the crucial need for a “children first” approach that focused holistically on young offenders’ needs as children, with the state’s responses prioritising their well-being and longer-term development as citizens, and assiduously avoiding the stigmatisation and demonisation of these vulnerable children. They shared an openness to the challenge of fostering children in conflict with the law, although attitudes varied from an anxious wariness (Hungarian and Bulgarian carers) to a more confident sense of the feasibility of the task (English carers). But foster carers were equally clear that realising these aims depended on access to continuous professional support, financial support, and training. They were all conscious also of the prejudice in their local communities towards young offenders, and the need to receive much better levels of positive, non-discriminatory collaboration from schools and local networks than currently available.

Birth families were in agreement that earlier, more helpful, and greatly less judgmental, responses to their concerns from the authorities might have made a difference. As things now stood, however, they clearly wanted the best for their children and while having anxieties that foster care might undermine the relationship between children and parents, most families were prepared to be open to discussion of foster care if their own views and interests were listened to.

The young people who participated made a powerful contribution. One could have no doubt that the oppressive and impoverished early years that these children had faced had taken their toll in terms of shaping and restricting their life chances. Loyalties to family and
community shone through their accounts, as well as criticism of professionals' shortcomings. It was also consistently clear how damaging these children's experiences of custody had been, and how great is the obligation policy-makers bear to create better alternatives for them.

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SETTING UP AND OPERATING A FOSTERING SERVICE FOR CHILDREN IN CONFLICT WITH THE LAW

John Page

Introduction

The purpose of this guidance is to provide assistance to any organisation, whether a state body, non-Government organisation (NGO) or other body, that wishes to establish a specialist fostering service for children who are in conflict with the law. Such a service is based on a set of quality standards (see Chapter 9), which both specify the nature of the services that the children should expect to receive and the ways in which the fostering service should operate.

In proposing standards that can be applied across the wide range of individual European countries, it is recognised that this guidance will need to be interpreted in a way that takes full account of the particular legal and policy context in which the service is to be developed. Having said this, the headings set out below and the guidance under each heading identify issues that are likely to arise in any country. A benefit of using the guidance is that it enables a structured project management approach to be taken. This can serve to ensure that key benefits, risks, plans and timescales are identified and monitored.

The guidance is intended to serve as a companion to the quality standards, and should be read alongside them.

Assessing the need for a specialist fostering service

When considering the establishment of a fostering service, it is first important to identify how many children (of one or both sexes) may be in need of such a provision. In addition, the ages and range of ethnicities need to be identified, together with the extent to which the children are in conflict with the law, including through involvement in the formal criminal justice system.

The potential need for a service can only be properly assessed if consideration is also given to the referral routes that can bring children to the attention of the fostering service. This requires an assessment of the likely willingness of statutory bodies to make referrals, and of children and their families to be the subject of referrals. Having considered these factors, it will then be possible to identify the scale, nature and capacity of the planned fostering service.

Child population data, drawn both from justice and welfare sources, are likely to be of some assistance in assessing the nature and level of need for a specialist fostering service. However, such data are often at a high level of geographical aggregation (regional or national), while a fostering service is likely to operate on a smaller scale. This means that the higher level data need to be treated with some caution, and to be augmented by information that is more “local” in nature, and which matches the size of the geographical area in which the fostering service is to operate.

Raising awareness

In the process of establishing the nature and level of likely need for a specialist fostering service, thought also needs to be given to how to build and sustain awareness of the service.
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among those bodies and professionals who are likely to make referrals of children. This is likely to mean that contact with these key stakeholders will need to be made during the needs assessment process.

The process of building awareness needs to be a live and dynamic one, with the fostering service provider actively addressing many of the following issues with stakeholders:

- making clear how the fostering service will ensure that it meets the needs of children, as specified in legal statute and in the objectives of the bodies/professionals who might refer children to the service;
- identifying how it will evaluate and report on children's progress and outcomes;
- providing clear information about the service's purpose, remit and working methods;
- specifying how the service will promote information about its work, continue to include key stakeholders who are involved, extend its reach and inform further service development;
- the development of outcome criteria that include the reduction of children's conflict with the law, but which also focus more widely on improving other aspects of children's well-being.

**Implementation issues**

Although the service may operate at local, regional or national level, it may be better to build it up from a smaller scale. A particular benefit of initial piloting is that it can take place in a location where the need for the service, and support from key stakeholders, is strong. In addition to building up the service from an initially smaller geographical area, it may also be helpful to start the service on a more specialist basis, only later expanding it to focus on a wider range of needs. For example, the service might initially focus on a narrower age group of children.

The benefits of taking a stepped approach to implementation include:

- ensuring that the needs of key stakeholders, in terms of their fulfilment of their responsibilities for children, are being met;
- identifying which aspects of the service work well and less well, and the steps that need to be taken to address the latter;
- finding out more about the nature and level of unmet need, in particular among children who fall outside the pilot group;
- ascertaining how the fostering service can best fit with existing services (justice, welfare and education) that have responsibilities for children in conflict with the law.

**Capacity building**

The creation of a specialist fostering service for children in conflict with the law may be based on an extension of a pre-existing service, or it may involve the setting up of an entirely new service. If it is the former, it may well be possible and desirable to develop and train existing foster carers into a new, more specialised role. In many cases, this will involve the development of foster carers who have previously cared for children who are younger than those who are in conflict with the law. Alternatively, it may be necessary to implement new recruitment approaches, which might be targeted at those who have previously fostered
children or those who are new to fostering, recognising that the two groups may have differing support needs.

Beyond the initial recruitment of potential specialist foster carers, the service also needs to have in place a clear, timely assessment and approval process for prospective foster carers. A key issue in the assessment process will be identifying and enhancing the capacity of foster carers to address the behaviours of children that bring them into conflict with the law, and to work within the legal context that is in place for addressing such behaviours. Clarity will also be needed about the arrangements for remunerating foster carers.

**Operational requirements**

The establishment and maintenance of a group of foster carers who are able successfully to care for children in conflict with the law leads to a number of operational requirements. First among these is the need to create and staff a service with professionals who are able to recruit, supervise and support the foster carers. This will require a mixture of skills among the staff, and the operation of a structure within which they themselves can be trained, supervised and supported to perform well.

Beyond the foster carers and the staff who support their work, it is also necessary to operate in a way that involves young people and their families in the operation and development of the service.

In addition, relevant structural links need to be established between the specialist fostering service and other parts of the organisation of which it forms a part, and with other organisations. These links will vary, according to the extent to which the service is a freestanding one.

**Quality assurance and governance**

Specialist fostering services for children in conflict with the law may, in some countries, be the subject of external registration, regulatory and/or inspection processes. Whether or not this is the case, fostering services need to have in place their own quality assurance process. The quality standards contained in this publication (see Chapter 9) will be of great assistance in the design of such a process.

The results of the operation of quality assurance processes, whether external or internal, need to be reported to and carefully considered by those responsible for the governance of the fostering service.

Another key aspect of service quality is the identification and meeting of the learning and development needs of foster carers and of staff. The results of quality assurance activities are likely to provide important information about the nature of these learning and development needs.
Understanding the costs

For a fostering service to operate successfully, it is essential that it develops a clear understanding of the costs of providing the service, both in terms of the fixed costs (which have to be borne regardless of the scale of service activity) and the variable costs (which rise in line with any increase in the extent of service activity).

A full understanding of both types of costs, and the balance between them, will enable fostering services to secure a good understanding of the cost-effectiveness of the service, once set alongside measures of the effects of the service on children themselves (in terms such as educational engagement/attainment and reductions in the extent of conflict with the law). This is important in enabling fostering services to demonstrate the financial benefits that can be gained through the provision of services to children in conflict with the law, in particular in comparison with other types of provision, such as residential care or custodial placements.

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Foster carers can make a positive difference to the lives of children who come into their care. The role of a foster carer is therefore an important one and is distinct from that of a parent. Although foster carers need to possess many of the same skills that parents need to have, they also need to work within the specific legal framework set by their country’s child care systems, laws, policies and available resources. They will therefore need special skills, understanding, and tools that can be applied in a flexible way to the care they will be providing for children with different needs, and in various social situations.

Foster carers will also need to have a good understanding of the key elements of child development pertaining to their role, and to feel confident to represent and champion the needs of the children they foster, in all spheres of their lives. Foster carers for children in conflict with the law will also need to be able to work in partnership with a range of professionals, including those within the youth justice system, in helping children to achieve their potential.

### The need for quality standards

The aim of these quality standards is to provide the framework for the high quality fostering practice needed to secure positive welfare, health and education outcomes for children who are no longer able to live with their parents as a result of being in conflict with the law, or as a result of antisocial behaviour. There is no doubt that high quality fostering standards impose significant responsibilities on foster carers, and on the agencies and personnel whose role is to support them. We hope that these standards will help foster carers to understand the needs of this particular group of children, the specific nature of the foster carer’s role, and the support they can expect from fostering and youth justice services, to help them achieve successful outcomes for children.

These standards also aim to provide a clear basis for developing training and support for foster carers that will assist them to transform the lives of troubled children, and a yardstick for judging the quality of services.

Each country’s national fostering standards, as well as its training, support and development standards, should set out how foster carers are assessed, approved and supported. Post-approval, all carers should be required to receive ongoing training to support their professional development in caring for children.

### What the standards cover

The quality standards are arranged under the following headings, with a separate section on standards that are specific to children in conflict with the law.

- Building a positive relationship with the child and providing support
- Communicating with children
- Supporting relationships with family members, where agreed
- Promoting health and well-being
- Promoting education
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- Providing a safe and homely family environment
- Training of foster carers
- Recruitment, assessment and approval of foster carers
- Supervision and support of carers
- Standards of care and allegations
- Fostering service's statement of purpose
- Records
- Payments to carers
- Standards that are specific to children in conflict with the law

Building a positive relationship with the child and providing support

- Foster carers are the “secure relational base” for the children they care for, even if this role is shared with other significant adults in the child's life. From this secure base, the child's needs, development and well-being become the focus of the placement, enabled by the foster carer's commitment, knowledge and expertise.
- Foster carers support children in their care by managing challenging behaviour in a way that mirrors the way in which families in general deal with this issue, in terms of minimising, as far as is reasonable, the use of police involvement.
- Children are encouraged by foster carers to behave positively, to develop and sustain good relationships with peers and adults.
- Foster carers care for children in ways that safeguard them from abuse and neglect, and from any form of sexual exploitation, and support children in taking appropriate risks while keeping themselves safe, in their dealings with peers, adults, the internet and social media.
- Foster carers also help children to develop a positive understanding of their background and develop confidence and self-esteem, and provide them with care and security that is aimed at minimising the risk that they will go missing. In the event of a fostered child going missing, foster carers act promptly in accordance with the fostering agency's requirements and any court directions that are in force.
- Carers are helped to understand how to prepare and enable children to successfully manage critical periods of change in their lives, and how to support them as they experience the ending of placements.
- The fostering service provides children, prior to placing them with foster carers, with information about other sources of support that they can access, and about how they can make a complaint.
- The fostering service should have clear procedures for introducing children into the foster care placement, which cover both planned and, where permitted, emergency foster care placements.

Communicating with children

- Foster carers value and pay careful attention to the child's wishes and feelings, and to the wishes and feelings of those who are significant to the child.
- They communicate with children in their care, both verbally and non-verbally, in ways that are clear and sensitive, in particular where children's expressed wishes cannot be met, and they take account of non-verbal ways in which children express their views.
- Foster carers engage with children in their care through play and leisure activities, in order to develop their relationships with them, and to create opportunities for communication with them.
Quality standards for fostering children in conflict with the law

- They take account of and work to meet the specific needs of children with communication difficulties, such as those arising from a child’s particular level of development or knowledge of languages.
- They support children to communicate with professionals, family members and others, in accordance with the plans that are in place for the children.
- Children who are placed with foster carers by the fostering agency are, prior to being placed, provided with information drawn from the fostering agency’s statement of purpose, in a form that meets the child’s preferred method of communication. The foster carer will explain this information to them in a manner that is clearly understood.

Supporting relationships with family members, where agreed

- Foster carers support children to sustain positive family contacts and relationships, in accordance with the arrangements that have been agreed for the child and any requirements imposed by a court.
- Foster carers monitor the impact on children of contact with family members and significant others, and provide feedback about this to the fostering agency, as necessary.

Promoting health and well-being

- Foster carers assist children to understand health issues that affect them, how to maintain a healthy lifestyle, and to make informed decisions about their own health.
- Foster carers enable children to participate in activities that benefit their physical and emotional health.
- Foster carers work with the child’s social worker and fostering agency to ensure that children’s health needs are fully assessed and met, and that every child has a health plan in place that is regularly reviewed. Children have prompt access to a doctor and to a range of other health professionals, including specialist services, in accordance with their needs and with their health plan.
- Children’s emotional, social and physical skills are developed and encouraged by their foster carers, within the foster home.

Promoting education

- Foster carers provide an environment that facilitates children’s learning, practical skills and academic development.
- Fostered children have access to a range of educational resources to support their learning, receive support to attend school or the educational facility provided, and have opportunities beyond the school day to engage in activities that promote learning.
- Foster carers maintain regular contact with the child’s school, or other educational setting, and expect to be treated in the same way that these settings treat parents, i.e. they should be invited to meetings about the child and should be authorised to give consent to school activities.

Providing a safe and homely family environment

- Fostered children should be treated as normal members of the family home.
- Foster carers explain everyday household rules and expectations to fostered children and provide any help children may need in keeping to these rules and expectations.
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- Foster carers’ homes are suitable for accommodating children, in terms of warmth, furnishing, space and comfort.
- Foster carers are able to ensure that their homes are safe and hazard-free.
- Fostered children are provided with information about their possible future foster carer’s home, and are supported in moving to live there.

Training of foster carers

- The fostering agency provides relevant specialist training to foster carers who are to care for, or are caring for, children in conflict with the law, which enables foster carers to work effectively with criminal justice bodies that work with such children.
- The fostering agency ensures, through its ongoing post-approval training programme, that its foster carers are equipped with the skills required to provide high quality care, and meet the needs of foster children.
- Training provided to foster carers by the fostering agency is designed and delivered in a way that enables the foster carers effectively to identify and meet the needs of foster children that arise from their diverse racial, ethnic, cultural and linguistic characteristics.
- The fostering agency ensures that its foster carers receive training on health and hygiene issues, first aid, health promotion, and the risks from sexually transmitted diseases.
- The fostering agency ensures that foster carers receive training to provide appropriate care, if they are looking after children with complex health needs or disabilities.
- The fostering agency provides learning opportunities and regular supervision to foster carers to enable them to provide sensitive care and maintain appropriate control in relation to the children placed with them, including in relation to the de-escalation of problems and disputes.

Recruitment, assessment and approval of foster carers

- The fostering agency recruits, prepares, assesses and supports a range of foster carers, including those who can meet the needs of children in conflict with the law.
- The fostering agency is, through effective recruitment strategies and analysis of the needs of children in conflict with the law, proactive in assessing and planning to meet the current and future needs of children.
- Adults who are interested in becoming foster carers of children in conflict with the law are treated fairly, without prejudice, openly and with respect. Their enquiries are dealt with courteously and efficiently by staff who are knowledgeable about fostering.
- Prospective foster carers are kept informed by the fostering agency about the progress and outcome of any applications that they have made to become foster carers for children who are in conflict with the law.
- Prospective foster carers are prepared and assessed by the fostering agency to become carers in a way that addresses, and gives them practical skills to manage, the issues they are likely to encounter, and identifies the abilities and strengths they have, or need to develop, in order to meet the needs of children in conflict with the law.
- Foster carers and prospective foster carers are provided with an opportunity to make representations to those who are responsible for deciding about applications from prospective foster carers and for reviewing existing foster carers.
- Decision-makers dealing with applications by prospective foster carers and reviews of existing foster carers have access to relevant medical and legal expertise.
- Decisions about applications by prospective foster carers and the outcome of reviews of
Quality standards for fostering children in conflict with the law

existing foster carers are recorded accurately and communicated without delay to those affected by them.

- Fostering agencies undertake relevant assessments of children's needs and characteristics, or make use of recent assessments undertaken by others, in determining placement arrangements and identifying risks. (For example, in England the ASSET risk assessment tool is used to assess risk and protective factors influencing future offending for children in conflict with the law, and this would be relevant for the fostering agency to access.)

**Supervision and support of carers**

- The fostering agency periodically assesses and reviews the performance of its foster carers in caring for and meeting the needs of foster children; this process includes the identification of foster carers' own learning and development needs.
- The fostering service provides ongoing monitoring of the work of foster carers; this is undertaken by appropriately qualified and experienced staff.
- Foster carers are provided with written information by the fostering agency about the scrutiny arrangements that are in place.
- Foster carers confirm in writing to the fostering agency that they accept the scrutiny arrangements that are in place.
- Fostering agencies provide relevant information to foster carers, derived in part from assessments, to enable them to be adequately informed about children for whom they are caring.
- The fostering service provides ongoing support to foster carers, through means such as “out of hours” services, self-help groups and mentoring.
- The fostering service ensures that foster carers are able to raise concerns that they may have about the quality of the support that is provided to them and of the monitoring their work receives.

**Standards of care and allegations**

- The fostering agency has in place a process for dealing with concerns about the quality of care that is provided to fostered children and the performance and behaviour of foster carers and agency staff.
- The process for dealing with concerns is operated in a way that is focused on the welfare of children and which is respectful of those who raise concerns, and those foster carers or staff who are the subject of the concerns.
- The fostering agency ensures that its staff and foster carers are aware of what action to take if concerns about the welfare of children or the performance or behaviour of foster carers or staff become known to them.
- The fostering agency must ensure that foster carers have a clear written procedure for use if a child in placement goes missing from their home.

**Fostering service’s statement of purpose**

- The fostering agency has a clear, current statement of purpose that is available to foster carers, agency staff, children and their parents, and which is reflected in the agency's policies, procedures and guidance.
- The fostering agency's statement of purpose includes aims and objectives that are child-
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focused, and which set out how the agency will operate in order to meet the needs of children, including, in particular, those who are in conflict with the law, and how it will collaborate with relevant criminal justice bodies.

Records

- The fostering agency has in place and operates a written policy that sets out the purpose, format and content of information that it keeps that relates to foster carers.
- The fostering agency has in place and operates a written policy that sets out the purpose, format and content of information that it keeps about fostered children, including how that information may be accessed by children and their parents.

Payments to carers

- The fostering agency has in place and implements arrangements for the making of payments to foster carers.
- Payments made by the fostering agency to foster cares who look after children in conflict with the law take into account the foster carers’ skills and experience.

Standards that are specific to children in conflict with the law

- The views of children in conflict with the law are obtained and taken into account in decision-making about whether to place children with foster carers.
- The fostering agency ensures that children are matched with foster carers who are able to meet their assessed needs, including, in particular, risks associated with behaviour that has brought them into conflict with the law.
- When considering the placement with a foster carer of a child in conflict with the law, the fostering agency ensures that the carer has sufficient knowledge and understanding of the youth justice system, its processes and procedures, and the tariff of penalties/disposals available to the courts, and has the capacity to contribute constructively to these processes.
- The fostering agency, when matching children with foster carers, takes account of the potential impact of the placement of the child on other members of the foster carer’s household, and takes relevant steps to ensure the provision of necessary support.
- Children are supported by foster carers in their interaction with the youth justice system.
- Placements with foster carers of children in conflict with the law take place in accordance with the requirements of the courts and/or youth justice agencies.
- When considering the matching and placement with foster carers of a child who is in conflict with the law, the fostering agency takes into account and operates in accordance with the timescales and decision-making processes of relevant criminal justice bodies.
- When considering the matching and placement with foster carers of a child who is in conflict with the law, the fostering agency supports the carer to assist with preventing or minimising the child re-offending and to work towards the child's reintegration into society and shedding of the “offender” label.
- When making decisions about the placement with foster carers of a child who is in conflict with the law, the fostering agency takes into account the child's assessed racial, ethnic, religious, cultural and linguistic needs, and matches these closely, to the extent possible, with the ethnic origin, culture and language of the foster family.
- Children who have been in conflict with the law are supported in making successful transitions at the end of their foster placement.

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INTRODUCTION

For anyone considering fostering children and young people who are in conflict with the law, in-depth preparation is vital. Prospective foster carers must have the opportunity to find out what this type of fostering involves, to develop the skills and knowledge that they will need, and to reflect on the implications for themselves and their families.

This course provides a structured set of sessions that trainers can use as a basis for introductory training for people who are interested in becoming foster carers for children and young people in conflict with the law. This preparation will help prospective foster carers to understand and meet the needs of the young people who are at the heart of this important training.

Why this training course is needed

Fostering is identified by the United Nations Convention on the Rights of the Child (UNCRC) as one of the alternatives to custodial and institutional measures for young people in conflict with the law. The Council of Europe’s Guidelines on Child-Friendly Justice state that children, when they have any contact with judicial proceedings, are to be treated with ‘care, sensitivity, fairness and respect’, and in a manner ‘adapted to and focused on their needs and rights’. High quality foster care can provide the emotional stability and psychosocial support necessary for young people in conflict with the law to build their self-esteem and change their behaviour. As an intervention, it is likely to be more effective in reducing recidivism rates than punitive or institutional interventions that do not address children’s problems.

Advocacy of foster care can also be situated within a growing body of research on the effectiveness of treatment programmes for juvenile offenders that emphasises:

- the value of carers and other professionals making relationships with the young person;
- victim–offender mediation and restorative justice approaches;
- skill building (e.g. cognitive behavioural techniques, social skills, educational and vocational skill building);
- counselling (e.g. individual, group, family, and mentoring);
- multiple co-ordinated services (e.g. a team around the child).

If more young offenders are to be given the opportunity to be rehabilitated in the community rather than locked up, there is a need for new foster carers to be adequately prepared and trained to take on this task.
Who should use this training course?

This training programme, and the pan-European quality standards accompanying it, are intended to be used by:

- social work and fostering professionals with training responsibilities;
- training agencies; and
- managers within each of these services, in their roles either as commissioners or providers of preparation training for new/prospective foster carers of children in conflict with the law.

Assessment and training of foster carers for children in conflict with the law

Normally, the trainer's evaluation of an applicant's learning, and the applicant's own self-assessment of learning from the course, will help to guide the home study/assessment, and will be a component of the final overall assessment report. This will need to be clearly explained to applicants at the outset.

The final report will need to cover the details of the training course the applicant attended, and a summary of the topics covered. It should also provide an account of the applicant's views of their principal areas of learning during the course, and of any further areas they would like to cover for their future training and development.

The trainer's feedback, identifying the applicant's strengths along with the noting of any concerns, will be obviously useful for the assessing social worker to have.

After pre-approval training and induction, it is important that all foster carers have access to opportunities for continuing professional development, and are given the encouragement and practical support to continue to attend training following approval (www.baaf.org.uk/info/fostering#what).

In England, for example, completion of the Training, Support and Development Standards (known as TSD Standards) has been a requirement within the revised National Minimum Standards for Fostering Services since April 2011. The supervising social worker and foster carer agree a Personal Development Plan for the foster carer with timescales for completion of training and other learning activities. The foster carer's participation in this programme is recorded in a workbook/portfolio, which the supervising social worker countersigns. The TSD Standards have to be met by the end of the first year of fostering. There are slightly different expectations for family and friends carers and short break carers (see https://www.gov.uk/government/publications/training-support-and-development-standards-for-foster-care-evidence-workbook).

Post-approval training should take into account the carer's learning needs and the types of fostering they have been approved for and are interested in. Agency plans for ongoing training and development should be based on a holistic assessment of the carer's needs.

This training course should provide a good grounding in the skills and knowledge needed for the particular challenges presented in caring for children in conflict with the law. However, it is a theme of our work in the project as a whole that these children's needs should be viewed holistically, and an over-emphasis on issues arising from their status as "young offenders" may not necessarily be helpful.

Carers may want or need more training on behaviour management, or a deeper knowledge
of their country’s youth justice and legal systems, but just as relevant may be further training on
listening skills, attachment, or on supporting children with their educational and
vocational needs, or developing children’s social skills, or on working with others in
combating substance misuse behaviours.

(Of course, making available post-approval training in the areas we recommend will be
dependent on agencies appreciating the importance of post-approval training and
themselves having the skills and awareness of the issues to provide or commission suitable
training. We would emphasise the expectations on agencies we set out in the quality
standards in Chapter 9 as the key guide here.)

How this training course came about

This training course is the outcome of a two-year project entitled ‘Alternatives to Custody for
Young Offenders: Developing intensive and remand fostering programmes’, funded by the
European Commission’s Daphne III programme and led by the British Association for
Adoption and Fostering (BAAF) as co-ordinator. The project has also been driven by the
“child-friendly justice” movement led by the Council of Europe. This movement emphasises
that children in conflict with the law should be treated as children first and foremost, and
that, except under rare circumstances when it is indeed a last resort, custody is an
unacceptable solution for young people in conflict with the law. At best, custody fails to
address their developmental needs and rights under the UNCRC, and at worst can be
profoundly damaging.

BAAF has been partnered in this project by NGOs in Hungary, Bulgaria and England; an
Italian university; local authority associates in London and Budapest; and international
network organisations in Belgium.

The training course has been published by BAAF as part of a set of materials to promote the
wider use in Europe of foster care for young people in conflict with the law.

Our specific starting point has been the belief that high quality foster care, when delivered
by committed carers who are receiving all the training, supervision and support they will
undoubtedly need, can often offer a vital “alternative to custody” as well as great benefits
for this highly vulnerable group of children.

What this trainers’ guide comprises

• Instructions for running six training sessions, including:
  • copy for a presentation
  • information for trainers to help them elaborate on the presentation
  • information for trainers on how to conduct the learning exercises and discussions
  • exercises and handouts (handouts are available on the BAAF website, in a password-
protected area, from where it can be used for this course. Visit www.baaf.org.uk/young-
fostercarers-law, and enter the password baafEUfostering).

Alternatives to custody

- A short film titled *The difference foster carers can make for young people in conflict with the law*. This is available on the BAAF website, in a password-protected area, from where it can be used for this course. Visit www.baaf.org.uk/young-fostercarers-law, and enter the password baafEUfostering. Please note, the password is case-sensitive. (Trainers in European countries should have arranged to insert subtitles in the film or have the transcript of the film translated – see Session 1 Handouts for a transcription of the narration and dialogue.)

How this training course is structured

The course incorporates a variety of teaching and learning approaches, including presentations, discussions, exercises and short film clips, to engage and motivate participants, stimulate their interest and promote participation.

It is intended that each session will last for between three and four hours (including a break), and that the six sessions will be provided on a weekly basis to groups of between eight and 12 prospective foster carers.

However, the timing is flexible and will vary depending on the size of the group, the extent to which the trainer goes into depth about the material, and the amount of questioning and discussion that arises during the session. Time for group discussion is vital. Participants value this and it allows them to learn and gain new insights by listening to other people’s thoughts and experiences. Presentations – in which the trainer stands at the front and imparts information to the participants – should be kept brief.

Since time for reflection is so important, it is not recommended that the course be run on consecutive days.

Who should provide the training?

The course can be presented by one trainer, but would be more effective if presented by two trainers, as they can share the tasks of conducting sessions, setting up exercises, and observing the applicants throughout the course. Another model that has proved helpful is to have the course co-presented by a trainer and a foster carer with experience as a trainer, working together.

To get the best from this preparation course, agencies should ensure that course leaders:

- have been helped to develop the necessary training skills;
- have an understanding of adult learning principles;
- appreciate the principles underpinning co-training;
- are committed to anti-discriminatory practice;
- are familiar with the course content, and the specific challenges of fostering young people in conflict with the law, and are confident in delivering the course content.

Training in countries across Europe

Some elements of the training sessions are England-specific. Equivalent elements will need to be created in each country. The presentations will focus on the general, and will sometimes offer examples from the English/UK context, but trainers need to prepare in advance so that they can provide equivalent examples relating to the particular context within which they work.
Creating the presentations

In this trainers’ guide we have provided content for each session, which trainers can use and/or adapt to create a presentation which they can display to participants via a laptop and projector, using Powerpoint or similar software. Where the content for a particular slide or slides is England-specific, trainers in other European countries will need to rewrite it to make it relevant to their own country.

The film

This trainers’ guide comes with a film (see previous page) showing interviews with some foster carers who recount some of the challenges faced, and also the rewards. During the sessions, you will be directed to this film to illustrate and expand on the points you are making in that session, and to act as a stimulus for further discussion among the participants.

In European countries in which participants do not all speak English, trainers will need to arrange to provide a translated version of the transcript.

Creating handouts/information sheets

In some cases, trainers in European countries other than England and Wales/the UK will need to research and write alternative handouts in advance, in order to provide information or examples relevant to their own country. We have indicated where trainers will need to research and write alternative handouts.

What you will need for each session

- Name badges for trainers and participants
- Laptop, projector and screen and your Powerpoint presentation
- An internet connection to be able to access the film (some sessions only)
- Any handouts (NB: handouts accompanying this course are available at www.baaf.org.uk/young-fostercarers-law)
- Flip charts and pens to write up key points
- Refreshments, if you are supplying these

For certain sessions you may need to bring other resources for particular training exercises. These extra resources, if any, are listed at the start of each module.

Standard housekeeping points

At the start of each session you should refer briefly to points related to health and safety. For example:

- Where the toilets are located
- Where the fire escapes are located and what participants should do in the event of a fire or other emergency
- Whether there is a fire drill planned for that day
- What time you will have a break and what time the session will finish
- Mobile phones should be turned off or at least turned to silent mode
Alternatives to custody

Homework
At the end of most sessions, trainers will set one or two homework tasks for participants to think about in their own time, sometimes with their families. Sometimes these tasks involve reading around the subject; on other occasions participants will be asked to reflect on what they have learned during the session and perhaps to discuss it with the rest of their family.

The six sessions

The topics covered under each session are as follows:

**Session 1**
- What foster carers do
- Why children may no longer be able to live with their families
- The different types of foster care
- What children need from their foster carers and how foster carers can meet these needs
- How foster care can make a difference to a child’s or young person’s life
- What is involved in being a foster carer for children in conflict with the law

**Session 2**
- How foster carers work as part of the team around the child
- Planning for children in care
- Managing contact with family members for children in foster care
- The concept of confidentiality

**Session 3**
- The concept of identity
- The impact of prejudice and discrimination on the life chances of children
- The foster carer’s role in helping children develop a positive sense of identity and in helping to build their self-esteem
- Some of the experiences of children who are separated from their families and in conflict with the law

**Session 4**
- A basic understanding of attachment
- The importance of providing a secure base
- How to promote positive behaviour in children and young people
- How to manage undesirable behaviour in children and young people

**Session 5**
- “Safer caring” to protect children and the foster carer’s own family; the risk of complaints and allegations
- Reducing the risk of harm to children (including online risks) and keeping them safe
- Child abuse and neglect and how these can affect children’s behaviour
- Family rules and what a safer caring plan should cover
- The effect of foster caring on the foster carer’s own family
- Standing in a child’s shoes
Session 6

- The impact of transitions and endings on children in conflict with the law and on foster carers
- How foster carers and their families can help children and young people to cope with transitions and endings – keeping memories safe
- A look back at the course, and forward to where you go from here

How much prior knowledge is assumed?

It's likely that participants on the course will have widely varying levels of prior knowledge about fostering and the criminal justice system. Some may already have experience of caring for children or of fostering, while others may have worked in or had contact with the criminal justice system in the past. Others may have started exploring the subject only recently or know very little.

Even though everyone attending the course will have been previously given some information, it's likely that not all of them will remember all the information they have been given.

Making the training interesting and relevant to a group with varying levels of knowledge is one of the challenges for the trainers delivering this course. Trainers should explicitly acknowledge that some participants may already be familiar with some of the information presented. Equally, trainers need to ensure that those who are new to these subjects are not left feeling out of their depth because basic information has not been covered.

Participants’ prior knowledge is one of your most important resources

As a trainer, you should welcome participants’ prior knowledge. Involve the group and allow group members to tell you things whenever an opportunity presents itself and where this is appropriate. For example, a useful technique is to ask the group questions and invite group members to supply the answers, rather than imparting information to them. That way, group members are active participants who are sharing their own knowledge with the group rather than passively sitting and (for some of them) being told things they already know. This method respects the knowledge and experiences that some group members have already gained and prevents the more well-informed participants from feeling patronised. It also makes for a livelier and more interactive session.

Everyone is welcome

It's likely that participants on the course will have diverse backgrounds, ages, ethnicities, financial circumstances and sexual orientations. Whether they are single or married, gay or straight, and whatever their ethnicity or social class, trainers need to show that they are all welcome as prospective foster carers for children in conflict with the law.

Trainers need to be sensitive to the composition of the group, paying particular attention to how they will address the needs of those from minority ethnic groups, those with disabilities, those who are single, unmarried couples and gay and lesbian participants.

Some practical ways to ensure your course is as inclusive as possible:
Alternatives to custody

- The venue should be accessible to people with disabilities and wheelchair users
- Language should not be a barrier; be aware of the need to ensure that everyone has understood (do you need to provide an interpreter or a Sign Language interpreter?)
- Check in advance whether any applicants have particular needs – for example, an applicant with impaired vision might need to sit close to the front and have the handouts printed in a larger type size
- Avoid scheduling training days on religious festivals and holidays
- If providing refreshments, make sure that these are acceptable to everyone, e.g. vegetarians and people who eat only gluten-free, kosher or halal food

Setting the “tone”

Trainers will need to strike a careful balance here. As someone who is tasked with preparing people for this type of fostering, you want to encourage them to go ahead – but you owe it to them to ensure that they understand the demands, challenges and risks, as well as the rewards it can offer.

However, the impact of listening to the interviews on the DVD in which experienced foster carers talk about the rewards of this role may be more powerful and authentic than hearing it from the trainer.

Managing emotions

Some of the topics for discussion on this course could trigger difficult emotions in some participants. Neglect and abuse of children, crime and punishment, removing children from their families – these are all emotive subjects, and some participants may have had personal experience of them. If someone was neglected or abused in childhood or had been a young offender themselves – or if this is true of a child or young person close to them – then having to reflect on what happened or listen to others’ views about these issues could make them upset or angry, or trigger painful memories.

Trainers need to be sensitive to this possibility and offer people the chance to leave the room for a short time if they need to. Trainers should watch out for people who seem to be struggling with strong emotions. If necessary, you may wish to have a quiet chat with them during the refreshment break.

Useful tips on training

- Send details of the venue, a map and information about public transport well in advance of the day.
- Provide a choice of drinks on arrival. Some people may have had long journeys to get to the training venue.
- First impressions count, so greet people in a friendly way when they arrive and introduce yourself. Chat informally to put them at their ease.
- Get people to write their own names on their badges; that way, you will know how they like to be referred to, e.g. Charlie instead of Charles.
• Have an initial “welcome” slide projected on the screen, or write a “welcome” message on the flipchart. You could have some music playing in the background.

• Check that people are happy with the temperature of the room and, if necessary, adjust the heating or open the windows accordingly.

• Start on time – if you always wait for latecomers, people won’t get the message that it is important to be punctual for the training sessions, and your timings will slip. (But you should still greet people in a friendly way when they arrive late – don’t ruin the atmosphere for everyone by letting your frustration show!)

• At the start of each session, give an outline of what the training will involve – people like to know what kind of processes they will be engaged in during the event, and this may help to dispel any anxiety.

• A good training event is mostly interactive – participants should not simply be sitting and listening for long periods.

• Give participants handouts of the content (e.g. your Powerpoint presentation) so that they don’t feel that they have to try to write everything down during the session.

• Always finish on (or ahead of) time. You can stay behind afterwards for informal chats with people who are not in a hurry to leave, but the session should finish at the advertised time so that people can leave to collect children, catch a bus or whatever, without feeling that they are missing something.

• Try to learn everyone’s name if you can. If you learn and use only two or three people’s names, some of the other participants may feel excluded. If you find some people’s names difficult, don’t be afraid to ask them exactly how to pronounce their name.

• Value everyone’s ideas and contributions. Remind them that in many cases there are no “right answers”. If the group is split on something, avoid taking sides – try to reflect everyone’s views fairly. However, there will obviously be times when participants will ask your views on important issues.

• If someone asks you a question to which you don’t know the answer, don’t feel threatened. Thank them for raising an interesting issue. You could say that you’re not sure about the answer but promise to find out and get back to them. If appropriate, you could ask if anyone else in the room knows, or ask what the group thinks – you could write the question up on the flip chart and ask them to write any ideas they have on post-it notes and stick them on the flip chart sheet.

• When giving presentations, remember how short people’s attention spans are likely to be – keep the input brief and then invite questions.

• Try to ensure that the group discussions involve the whole group and not just two or three people. Some participants new to training may feel less comfortable talking and sharing their opinions than others. You may need to encourage them to speak. Validate and acknowledge their contributions.

• Sometimes a group will contain an individual who always wants to talk about their own situation, or someone who has a lot of questions to ask and points to raise. Be careful not to let people like this hijack the group discussions – if necessary, offer to talk to them
individually during the refreshment break or at the end of the session.

- If the participants are getting particularly involved in a discussion and it is going on for too long, tell them that you value their contributions but will need to end the discussion and move on so as to be able to cover all the material scheduled for the session.

- Remember that a participant who seems “difficult” or argumentative may actually be feeling apprehensive and insecure. You could chat to them during the refreshment break to try to find out what is bothering them.

- Remember that people need time to digest what they have heard. It often takes a while to take on board new ideas or concepts and feel comfortable with them, and this will certainly be true of this course.

- After each session, take some time to reflect on how you think it went. Write down some notes about what you learned, what went well and how you might do things differently next time. Once you’ve done this, make a conscious decision not to dwell on the negatives!

- Look carefully at the participants’ responses on the evaluation forms at the end of the course and be prepared to adjust the training and the course activities in the light of this. Feedback is helpful, but again, try not to get diverted by any negative feedback. Simply consider whether it is valid (e.g. negative feedback may have come from just one individual who was having a bad day!) and, if so, what you might do to improve things next time.

**Ground rules**

You could invite participants to come up with their own “ground rules” for the way people behave and relate to each other during the training course, or to save time you could simply outline some standard ground rules and then ask if anyone would like to add anything.

Here are some standard ground rules:

- Disagree with an idea or viewpoint – not with the person. Always treat others with respect.

- Everything that participants might hear from other participants within the training session should remain confidential and not be shared with anyone else. The only exception to this would be if a child protection issue comes to light – for example, if someone mentions something which seems to indicate that a child or young person they know is at risk. In this case, the information should be shared (with the trainer, who will take appropriate action).

- Trainers should say that they will keep information confidential unless it is to be shared with the assessing social worker as part of the assessment process. Trainers should make it clear how this works and what kind of information they might pass on.

It should be explained to applicants that there will be a need for the trainers to feed back to the assessing social worker what topics have been covered in the course, and the observations they have made, primarily about applicant’s learning needs, but also about their attitudes and values where these relate to the task of fostering children in conflict with the law.

Sometimes applicants will have shared within the group anxieties, concerns or questions about fostering, or other thoughts and feelings where they have felt troubled by the training. It will need to be made clear that these will need to be shared as part of the trainers’ feedback to the assessing social worker, to ensure that any issues can be discussed with them in an appropriate way in the home study phase of the assessment.
Valuing diversity – if people on the course are a diverse group (in terms of ethnicity, age, background, single/married status and sexual orientation, for example), trainers should make it clear that they welcome everyone’s differing perspectives and emphasise that everyone is valued for what they can bring to the role.

Anti-discriminatory practice – remind the group that no-one should express discriminatory views or make unfavourable assumptions about other people’s culture, ethnicity, religion or sexual orientation. Make it clear that if any of the group members express any such views or use inappropriate language, they will be challenged.

The key qualities and capacities needed by foster carers for children in conflict with the law

- Available and at home during the placement
- Non-judgemental
- Resilient
- Empathetic
- Determined
- Patient
- Flexible
- Able to work with other key professionals and the judiciary
- Able to create a befriending relationship with the young person and make them feel part of the family
- Able to work with birth parents and relatives
- Willing to cope with challenging behaviour, or to develop skills in this area
- Willing to attend support groups and undergo training and professional development

Introductory/warm-up exercises

Some participants may be feeling slightly apprehensive or anxious, particularly at their first training session, so trainers may wish to start the first few training sessions with a short introductory/warm-up exercise.

Some of the exercises below are designed to help people introduce themselves to the group and others are simply to put them at their ease. Trainers should aim to make these exercises informal, light-hearted and, if possible, fun!

Introductions should be kept short – the shorter the training session, the shorter the introductions should be. Here we provide seven warm-up exercises, each of which should take around five to 10 minutes (possibly longer with a large group). Trainers can select any introductory exercise of their choice to start the training session – or they may, of course, have a favourite exercise of their own which they would like to use.

Miming game

Participants stand in a circle. The trainer starts by saying his/her name and then ‘I like…’ and says something he/she likes to do (e.g. swimming), while simultaneously doing a mime of the activity. All the other members of the group should copy the mime at the same time.

The next person in the circle then says his/her name and adds an activity of their own while miming the appropriate actions, e.g. ‘I like swimming and knitting’. The next person might...
add ‘gardening’ or ‘cooking’. Both the individual person and the rest of the group should all
do the mimes at the same time. The exercise continues, with the list of mimes to remember
becoming longer all the time, until everyone in the group has had a turn. Hilarity should
ensue!

**What did you have for breakfast?**

Participants pair up. They introduce themselves to each other and tell each other what they
had for breakfast that day. Then each person in turn introduces their partner to the group as
a whole, for example: ‘This is Maria, she’s a veterinary nurse and she had muesli followed by
toast and honey…’

**Introduce yourself in the time it takes…**

For this exercise you need a box of matches (and a smoke alarm system that is not too
sensitive!). One at a time, each person strikes a match and holds it up in front of them while
introducing themselves to the group in the time it takes for the match to either burn out or
get close to their fingers so that they have to blow it out.

This has two advantages: it keeps people’s introductions short and it reduces people’s self-
consciousness – they are focusing on the match, rather than on the rest of the group, while
they speak.

**What’s the weather like?**

Participants stand in a circle but turn to the side so that each person is facing the back of the
person in front of them. The trainer calls out the “weather” and people do the
corresponding action on the back of the person who’s in front of them. For instance, at the
command: ‘it’s raining’ everyone does a pitter-patter motion on the back of the person in
front of them; “lightning” means drawing a zig-zag shape on the person’s back, while
“sunshine” means gently massaging their shoulders. You can come up with other suggestions
for hail, snow or whatever.

**The ball game**

Participants need to be wearing their name badges for this game. They stand in a circle. The
trainer starts by calling someone’s name out while simultaneously throwing the ball to that
person. The person catches the ball and then throws it to someone else in the circle, calling
out their name at the same time. Continue until everyone has been included in the game at
some point.

**Guess the saying**

Ask participants to divide into groups of three or four. Ask each group to come up with a
well-known phrase or saying and then to make up a “clue” to what it is and write it down on
a piece of paper. Then each group should swap their “clue” with another group, and the
groups try to work out the phrase or saying. Continue until each group has written down
their guesses about all the phrases and then ask the groups to give their answers. Which
group has guessed the most sayings and comes out the winner?
Draw a picture

Ask participants to divide into small groups. Each person should draw a picture depicting something that they hope for or are looking forward to. (Tell them that stick figures are fine!) For some, this may be a picture of them and the child or children they might be fostering, any birth children they may have and perhaps their dog or cat. For others, it may be a picture of a holiday, wedding or big family party they are looking forward to, or a new home they hope to move to. Then ask them to share their picture with the other people in their small group and explain what their picture is about.

Examples of closing exercises for ending sessions

Trainers may wish to end each session with a short closing exercise, such as the examples below:

- Ask participants to spend a few minutes thinking about and making a note of three things that they have learned during the session and will take away with them.
- Ask participants to think about one thing that they have learned during the session that will help them, and one thing that they will need to think about or find out more about. If time permits, you could ask participants to share their thoughts with others in a small group or ask for a couple of volunteers to share with the group as a whole.

(Exercises from Dibben et al, 2014)
SESSION 1:
What does fostering children involve?

What you will need for this session

All handouts are available for downloading and printing on www.baaf.org.uk/young-fostercarers-law. Password: baafEUfostering.

- A laptop computer and screen for showing the Powerpoint presentation and the introductory film, titled *The difference foster carers can make for young people in conflict with the law* (available at www.baaf.org.uk/young-fostercarers-law, password: baafEUfostering. See Introduction for more information)
- A Powerpoint slide presentation, which you will need to have prepared in advance (see Introduction)
- A handout of the confidentiality agreement or “Working together agreement” drawn up in advance, for the group to discuss and agree on (see Handouts)
- The handout titled *Ali and Ramy* (see Handouts)
- If possible, a handout or Powerpoint slide that you have prepared, providing some statistics about children in care in your particular public authority/country, such as their age, ethnicity, gender, the main reasons why they have come into care and the relative numbers in institutions and in foster care (see Handouts for information relevant to the UK)
- The handout containing the transcript of the narration in the film (see Handouts)
- A handout titled *Types of fostering*, relevant to your own country, which you need to have prepared (see pp 148–9, which contain information relevant to the UK)
- A handout titled *Fostering for children in conflict with the law*, which you need to have prepared, with information about the types of fostering for such children that apply in your country (see *Intensive and remand fostering* in Handouts for information on the UK and *The Youth Justice System in the UK*).

Setting the scene

- Welcome participants, introduce yourself and explain your role in the fostering agency.
- Explain to the participants that the aim of this preparation course is to introduce them to the key information and skills needed to embark on fostering children in conflict with the law and help them to decide whether this is something that they want to do and to give them a realistic idea of what is involved. If they decide to go ahead it will help to prepare them for the role.
- Go through the standard housekeeping points (see p.133).
- Remind the participants of how your fostering agency has structured this course (for example, one session per week for six weeks). Explain briefly how the preparation course works – each session comprises a mixture of ways of learning, with relevant information provided through short presentations, group exercises and discussion. Emphasise that learning with (and from) others is important.
- Say that sometimes there will be information for participants to read after each session and/or activities to carry out at home either alone or with their families.
- If you are currently assessing prospective foster carers in the group, say so, and refer to any other colleagues who may also be involved in the assessment process. Even if you have previously explained this to applicants before they come to the sessions, it is helpful to comment on this again with the group as it provides a message about the value of being open with each other as you work together on this course.
Working together, setting ground rules, and introductions

- As this is the first session, you will now need to hand out copies of the “Working together agreement”, including ground rules (see Handouts), such as treating other participants with respect and keeping confidential any personal information that is shared in the sessions (unless it needs to be disclosed to the authorities in order to protect a child’s safety). Allow some time for people to read this (if they haven’t already seen it) and either agree on it or add any further points they think are necessary.
- Introduce the “questions” list. This is a flip chart page or similar that will be on display in every session. Tell participants that they can use this at any time to write down any questions about which they would like clarification. During the course, find opportunities to respond to anything that is added to the “questions” list.
- Emphasise that you will be working together as a team in the training sessions, and that team work is an important aspect of foster care.
- Ask each group member to say their name and tell the group briefly why they are interested in fostering children in conflict with the law.

Learning outcomes

Show the following slides.

SLIDE The aims of this training programme

- To explain what being a foster carer involves
- To help you to find out what a child entering foster care may need
- To help you to understand the benefits that foster care can bring to a child’s life – particularly a child in conflict with the law
- To introduce you to the skills and knowledge you need to develop when you become a foster carer looking after children in conflict with the law
- To enable you to decide whether this kind of fostering is right for you and your family

SLIDE Learning outcomes for Session 1

This session will help you to understand:

- what foster carers do
- why children come into the care of the state or public authority
- the different types of foster care
- what children need from their foster carers and how foster carers can meet these needs
- how foster care can make a difference to a child’s or young person’s life
- what is involved in being a foster carer for children in conflict with the law

Say that although fostering children in conflict with the law can be challenging, with help and support these foster carers can make a real difference to a child’s life.
Alternatives to custody

<table>
<thead>
<tr>
<th>SLIDE Sessions 2–4 will cover:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2  Working with others as a foster carer; planning for children; managing contact with the child's family; confidentiality issues</td>
</tr>
<tr>
<td>3  Identity, life opportunities, and discrimination</td>
</tr>
<tr>
<td>4  Understanding and caring for children in conflict with the law; attachment and providing a secure base; promoting positive behaviour</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SLIDE Sessions 5–6 will cover:</th>
</tr>
</thead>
<tbody>
<tr>
<td>5  Keeping all children safe; safer caring plans; child abuse, neglect, mental health and learning difficulties</td>
</tr>
<tr>
<td>6  Placements ending; what happens next</td>
</tr>
</tbody>
</table>

Presentation

Who are foster carers?

Show the following slides and make these points:

- Foster carers vary widely, in terms of their backgrounds, ages, ethnicities, cultures, religions and types of families. (However, point out that this degree of diversity is not the case in every country and it may not be the case in your country.) This variety is one of the strengths of foster care and means that different carers have different things to offer. Individuality, differences and diversity are of value, in terms of meeting the care needs of a wide range of children.

- Foster families come in all shapes and sizes – a single foster carer may be able to offer valuable energy and time but might need more support from their friends and family network, whereas a larger family group may provide greater support but there could be the potential for differences of opinion about fostering between members of the household.

- Point out that fostering will involve everyone in the household, not just the approved foster carers.

- Foster carers are part of a team of professionals and they are given support with the role.

<table>
<thead>
<tr>
<th>SLIDE Who are foster carers?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  There is no “typical” or “standard” foster carer.</td>
</tr>
<tr>
<td>2  Foster carers may be single or a couple and with or without other children in the family.</td>
</tr>
<tr>
<td>3  Foster carers may be male or female, and of any age but there will be a minimum age (varies from country to country).</td>
</tr>
<tr>
<td>4  Fostering involves everyone in the household.</td>
</tr>
<tr>
<td>5  Each fostering household is unique and valuable.</td>
</tr>
</tbody>
</table>
QUICK-THINK

Being a foster carer

Say that there are different types of foster care but some tasks are common to all types of fostering.

Explain that you would like to collect some ideas from the group about the tasks that foster care involves. Ask the question ‘What do foster carers do?’ and invite participants to call out their ideas, and write these up on the flip chart.

Show the following two slides. Your group may have suggested these and other tasks.

Explain that later in the session you will look in more detail at how foster carers offer support to children and young people in the various areas listed.

SLIDE What do foster carers do?

- Provide a home and a welcoming caring environment for children who cannot live with their families
- Provide safety and (if possible) stability
- Provide rules and boundaries to manage their behaviour
- Provide an opportunity for a positive relationship with an adult (foster carer) that can help a child to change their behaviour (if they are in conflict with law)
- Support children and young people with their needs in a range of areas, for example:
  - personal/social
  - physical
  - practical
  - emotional
  - educational
  - health

SLIDE What else do foster carers do?

- Help children stay in contact with members of their family (if appropriate).
- Work together with other professionals.
- Keep records and contribute to plans and reviews for children.

Say that foster carers themselves are given training and support with their role.

SLIDE Support for foster carers

Foster carers are provided with emotional and practical support alongside training and information, so that they can properly look after

- the children they foster
- themselves
- their own family
Alternatives to custody

QUICK-THINK

Why children come into state care

- Ask participants to think about why some children are unable to continue living at home with their families and need to be taken into care. Their ideas may come from personal experience of having been a foster carer, having been in care themselves, experiences of family and friends, reports in the media, or other professional experience. Ask them to call out their suggestions and write them up on the flip chart.
- Discuss their suggestions, and go on to explain that some reasons relate to the experiences of the child, while others are about the difficulties experienced by parents which, in turn, impact on their parenting ability. You could circle suggestions on the flip chart with different coloured pens to show how some reasons are interconnected, rather like a “cause and effect”; for example, “parents’ substance abuse” and “child being neglected at home”.
- Show the following two slides.

SLIDE Children’s adverse experiences

- Abuse (physical, sexual, emotional or mental) and neglect
- Trauma
- Poverty and homelessness
- Child in conflict with the law/fostering as alternative to custody
- Child sexual exploitation (where the parents fail to keep the child safe)

SLIDE Parental difficulties

- Parents’ ill health
- Parents’ mental health difficulties
- Parent(s) may have died
- Parent(s) may be in prison
- Parents’ substance misuse
- Conflicts within the family, including domestic violence
- Parents unable to cope with their child’s behaviour, illness, learning disability or physical disability

Information for trainers

- Generally, there is no single reason as to why a child may be taken into care; rather, the reasons are multiple, complex and intertwined.
- All of the issues listed can present serious challenges for parents and their children.
- Where a country’s system provides for children in conflict with the law to be placed in foster care as an alternative to custody or as a remand foster placement, this will be in accordance with the age of criminal responsibility of the country they live in. For example, in England and Wales it is 10 years and in Scotland it is 12 years. If you are a trainer in another country, tell participants the age of criminal responsibility in your country.
Presentation

**Coming into care: voluntary or compulsory?**

Show the following slide, if it applies to your country.

If it does not apply to your country, briefly explain to participants the legal process in your country for children being separated from their parents and coming into the care of the state. Then show the slide and explain that, as an example, this is the system that applies in the UK.

**SLIDE Coming into care: voluntary or compulsory?**

- Sometimes parents ask the authorities to look after their child or they willingly give their consent (i.e. voluntary).
- In other cases, where the state considers that it is necessary to have external authority to safeguard a child’s welfare, a court can order that the child should be placed in the care of the authorities if it judges that a child is suffering or likely to suffer significant harm (i.e. compulsory).

Presentation

**Institutions or family-based foster care?**

- Show the slide below. Explain that, in some countries, more children are in institutions than in foster care.
- It may also be helpful to provide a handout (or show another slide that you have prepared in advance) with some statistics about children in care in your particular public authority/country’s system, such as their age, sex, ethnicity and/or minority group status, the main reasons why they have come into care, and the relative numbers in institutions and in foster care.

**SLIDE Foster care in the UK and the rest of Europe**

- Almost 63,000 children live with around 52,500 foster families across the UK (figures for 2014).
- This is around two-thirds (67%) of the almost 93,000 children in care in the UK.
- In other European countries, major reforms are taking place to move children from institutions to family-based care with more community support services available to help foster families but much more needs to be done to advance this process (Eurochild, Hope and Homes for Children and SOS Children’s Villages, 2014).

Information for trainers

- Most children looked after by public authorities in the UK are in foster care, though there are other types of provision, such as children’s homes, which are considered more
Alternatives to custody

apposite for a small proportion of children. However, provision for children varies from one country to another. In some countries, more children are in institutions than in family foster care.

This may be the first time some participants have thought about and discussed the issue of deinstitutionalisation in European countries, i.e. the widespread agreement on the need to move away from institutional care towards family-based supportive care for children and young people. They may not be fully informed.

Presentation

Types of foster care

The slides below list various types of foster care. All these types exist in the UK, though some of these types of foster carer may not be found in your own country or there may be alternative types of foster care in your country. If the types of foster care in your country are significantly different, you should draw up a list that applies to your country.

Show the slides and briefly explain each type of foster care (see Information for trainers below for definitions of the types of care on the slides below). If any particular form of foster carer is not used in your country, simply say that it is not relevant in your national context.

SLIDE Types of foster care

Children of different ages, in different circumstances, will need different types of foster care. Some examples:

- Foster care for emergency situations
- Short-term foster care
- Long-term foster care
- Family and friends care (fostering by extended family members/close family friends)
- Fostering for children in conflict with the law

SLIDE More types of foster care

- Therapeutic fostering
- Respite care for children with disabilities
- Parent and child fostering
- Fostering for adoption i.e. prospective adopters foster baby prior to adoption
- Staying put – young people remain in foster care, even after they turn 18, rather than moving to independence
**Information for trainers**

**Emergency**
A child has an urgent need to be looked after due to an emergency, e.g. parent has been taken ill into hospital and there are no friends or family members available to look after the child.

**Short-term/intermediate**
A child needs foster care for a short or intermediate period, e.g. until a parent has completed a drug rehabilitation treatment programme or is in prison.

**Long-term**
A child’s parents are unable to look after the child for the foreseeable future and the child needs a permanent alternative home.

**Family and friends**
A child’s parents cannot look after them but members of the extended family or close friends of the family offer to care for the child temporarily or long term.

**Children in conflict with the law**
A child or young person is fostered by specialist foster carers while on bail, or when considered vulnerable and at risk of conflict with the law, or as an alternative to custody, or as part of a resettlement plan on coming out of custody.

**Therapeutic**
A child with emotional and behavioural difficulties is fostered by specialist foster carers who aim to make positive changes.

**Respite care for children with disabilities**
Children go to a foster carer for a short time for respite care so that parents can have a break.

**Parent and child**
A young parent who is considered vulnerable or whose child is considered vulnerable may be placed in foster care together, so that the parent can be supervised and/or supported.

**Fostering for adoption**
When it is very likely that a baby will need to be adopted, prospective adopters foster the baby while waiting for the court judgement, and then subsequently adopt the baby.

“Staying put”
Young people who are old enough to leave foster care, at the age of 18, continue to live with their foster carers until they are ready to live independently.
QUICK-THINK

What do children need from their foster carers and how can foster carers meet these needs?

Ask participants to consider the needs of children in foster care and to begin to identify the tasks foster carers have to undertake in order to provide the best possible care for children.

Divide the participants into small groups. Show the following two slides. Ask the groups to discuss the two questions for 15 minutes, using the list of Children’s needs as a framework for their discussion:

SLIDE Discuss:

1. When children come into foster care, what do they need?
2. How can foster carers try to meet these needs?

SLIDE Children’s needs

- Personal/social
- Physical
- Emotional
- Practical
- Educational
- Health

After the discussion, ask each group to feed back their thoughts to the group as a whole. Write down their ideas on the flip chart.

Lead a group discussion on the questions.

Explain that you will return to this theme in more detail in Session 4, when you will explore the Secure Base model, which promotes attachment and resilience in foster care.

Show the following slides to reinforce the points already made by the participants:
**SLIDE** How foster carers can help meet children's personal/social needs

For example:

- Help the child to develop social skills
- Help the child to form positive friendships and relationships
- Support the child to have continuing contact with his family (if appropriate)
- Provide leisure opportunities
- Encourage hobbies and interests
- Provide rules and boundaries to help child learn to manage his behaviour
- Ensure that the child knows how to maintain his personal safety outside the home
- Ensure that the child knows how to stay safe and how to behave online
- Respect the child's religious faith (if he has one) and his requirements for religious observance (e.g. by providing kosher or halal food)

**SLIDE** How foster carers can help meet children's emotional needs

For example:

- Support the child to cope with difficult feelings and emotions, e.g. grief, loss and anger
- Comfort and reassure the child when she is distressed or afraid
- Help her learn to manage her feelings in a positive way
- Build the child's self-esteem by helping her to develop her interests and discover something she is good at
- Support the child in developing a positive sense of her own identity (more on this in Session 3)
- Seek help for her, e.g. if child is being bullied or is self-harming

**SLIDE** How foster carers can help meet children's physical needs

For example:

- Provide a warm and safe house and bedroom
- Provide a healthy diet that meets any special health requirements
- Ensure that the child has suitable clothes and shoes and other personal items, e.g. toothbrush
- Teach and encourage personal hygiene

**SLIDE** How foster carers can help meet children's practical needs

For example:

- Provide transport for the child, e.g. to school, to extra-curricular activities
- Help him keep his possessions safe
- Help him keep his room clean and tidy
- Help the child to learn essential (age-appropriate) skills such as using public transport, going shopping, handling money, cooking
Alternatives to custody

**SLIDE  How foster carers can help meet children’s educational needs**

For example:
- Help to find a suitable school for her to attend (if necessary)
- Help her settle in at new school
- Ensure she has all the books and equipment she needs
- Support her with school work and studies
- Ensure that she has a quiet place in which to do homework
- Liaise with the school teachers and other education staff
- Encourage her to work hard and persevere
- Praise her efforts and celebrate her successes
- Advocate for her with the school when necessary
- Help school teachers to understand the reasons behind her behaviour

**SLIDE  How foster carers can help meet children’s health needs**

For example:
- Register the child with a doctor
- Ensure that he has all necessary health and dental check-ups, immunisations, etc
- Provide opportunities and encouragement for physical activity
- Provide a healthy diet and promote a healthy attitude to food
- Encourage self-care, e.g. brushing teeth, cutting nails
- Discuss age-appropriate risks and precautions, e.g. re: drug-taking, sexual activity
- Be a good role model, e.g. never smoke in front of him
- Seek medical advice if you are concerned about his health

**QUICK-THINK**

How foster carers make a difference

Explain that foster carers can make a significant difference to the lives of children and that you are going to watch a film that demonstrates this, titled *The difference foster carers can make for young people in conflict with the law*. (Trainers in European countries should have arranged to insert subtitles in the film or have the transcript of the film translated – see Session 1 Handouts for a transcription of the narration and dialogue.)

Show the film.

Ask participants for their reactions to and observations on the film. If no-one else makes the following points, you should make them yourself.
- There are different types of fostering, but there are common tasks that all foster carers will need to do.
- Children will have different needs according to their age, abilities/disabilities and skills.
- Just as children will bring with them their own strengths and knowledge from their experiences, so too will their foster carers.
- Fostering can be challenging and demanding but it can give vulnerable children a much...
needed chance to thrive in a foster family.

- Being a foster carer can offer a unique opportunity to create brighter futures for children who have had distressing and painful experiences by enabling them to learn about love, some of the positives of family life, and the value of education.

### Presentation

#### Children in conflict with the law

Show the slides below and expand on the points in relation to the situation in your own country.

**SLIDE** Who are the children in conflict with the law?

- We know from UK studies that the peak age of offending is between 15 and 18.
- In the latest figures for England, the majority – 81 per cent – of offenders were male and 19 per cent female.
- Re-offending still remains high, with around 35 per cent re-offending within a year (figures for 2011/12).
- The main offence types for young people in 2012/13 in England were:
  - violence against the person (including common assault) (21 per cent)
  - theft and handling stolen goods (19 per cent)
  - criminal damage (11 per cent)

(Youth Justice Statistics 2012/13 – England and Wales – Youth Justice Board/Ministry of Justice, 2014)

- In our partner countries (Bulgaria, Hungary, Italy) a high proportion of children in conflict with the law come from impoverished, marginalised communities, may often have suffered abuse or have mental health and learning issues, or come from backgrounds where there are multiple problems (BAAF, 2014).

**SLIDE** Young people and custody

- The population of young people placed in custody and other secure accommodation in Europe is exceedingly needy.
- Histories of self-harm are relatively common.
- In England almost one-third of young offenders in custody have identifiable mental health problems and over half have significant or borderline learning difficulties (Harrington and Bailey, 2005). It is difficult to say to what extent the latter finding reflects intrinsic learning difficulties, an absence of intellectual stimulation or the cumulative impact of social exclusion.
- 88 per cent of young men and 89 per cent of young women in youth offending institutions had been excluded from school at some point (HM Inspectorate of Prisons/Youth Justice Board, 2008).
- Traumatic loss and separation figure highly among young people who offend (Berelowitz, 2011).

(Adapted from Newburn, 2013)
Alternatives to custody

SLIDE What can foster care offer?

- Prevent or reduce re-offending rates
- Model and provide good family support
- Provide a stable environment to enable assessment of young people’s needs
- Engage young people in education/training/employment
- Enable young people to form a positive self-identity and feeling of self-worth
- Work towards reunification with family members or move on to appropriate accommodation
- Enable young people to understand risk and how to reduce it
  (Hargreaves et al., 2014)

SLIDE What does foster care offer children in conflict with the law?

- An opportunity to experience a safe and stable home life
- A positive relationship with a caring adult that can help psychological development and motivation
- An opportunity to change behaviour and stop offending
- A chance to achieve, fulfill their potential and become a good citizen
- An alternative to prison or other young offender institution

Information for trainers

Fostering children in conflict with the law provides homes for children and young people aged 10–16 (in the UK), who are remanded to public care accommodation, or those aged 17 bailed to reside as directed by the courts, whilst awaiting trial or sentence for alleged criminal behaviour.

Remand placements tend to be short-term, lasting on average only seven or eight weeks, yet can be influential for the child or young person, and have a positive impact on their offending behaviour, attitudes, education, and/or employment and family relationships.

Some placements may last considerably longer (in some instances six months or more), particularly if the young person is being tried alongside an adult.

The effectiveness of this type of fostering is built on the premise that adults who take a supportive interest, closely supervise, positively reinforce and use consistent sanctions can make a real and lasting impact on the behaviour of young people.

Foster carers’ intensive contact with a child gives them a unique opportunity to engage with the child. They can be role models and advocates, encouraging a child’s emotional and behavioural development, and can play a key role in reducing or stopping offending behaviour, provide support with education, training or employment, and work with the birth family.

(Lipscombe, 2006, BAAF)
Presentation

What can foster carers offer to children in conflict with the law?

Here, you should give information about the types of fostering for children in conflict with the law that apply in your country. The types used in the UK are shown on the slide below. You could also distribute *Intensive and Remand Fostering* as well as *The Youth Justice System in the UK* – both of which provide useful information about the UK (see Handouts).

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**SLIDE** Types of placement in the UK

- Group A: young people remanded into the care of the local authority
- Group B: young people at risk of offending or reoffending and of being placed in secure remand
- Group C: convicted young offenders serving the community phase of a custodial sentence
- Group D: emergency overnight placements for young people under police investigation
- Group E: emergency placements for young people out of hours
- Group F: intensive fostering  
  (Types of placements used by Action for Children in England)

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- Explain that over and above the fostering tasks you have already identified in this session, there are additional tasks for foster carers who foster children in conflict with the law.
- Show the following two slides to highlight the tasks of this role.
- Explain that children who are placed in this type of foster care may have to comply with the terms of court orders.
- Explain that the timing and duration of placements are also constrained by court decisions.

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**SLIDE** What do foster carers do for and with children in conflict with the law?

- Provide a stable home environment for the child, countering the influences that might lead him to offend or re-offend
- Form a warm and positive relationship, offering commitment and support to change behaviour
- Work with youth justice system professionals
- Support young people in complying with the conditions the court has imposed on them (e.g. wearing an electronic tag, reporting to police station, curfew)

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**SLIDE** Role of foster carers in court

- Support the young person attending court
- Advocate for the young person
- Provide relevant information to the defence solicitor
- Speak to the court and magistrate on behalf of the child, as required
Presentation

What do young people think?

Show the following three slides, which quote young people who are or have been in foster care. Read out the quotes. Point out that the first young person’s comments show what a difference small actions can make.

SLIDE

Suddenly someone was interested if I didn’t come back from school on time; there was someone who had prepared lunch for me; when I arrived home, we had lunch together. I had never experienced this before. And when I arrived ten minutes delayed at the house, they asked me why I was late. And I just thought, well I am late, no problem. But eventually I understood there is someone at home, who prepares lunch for me, who waits for me and who looks forward to me coming home. And the person is interested to hear how it has been at school, what I have to do, if I have to study, and so on.

(Reimer, 2010, pp 18–19)

SLIDE

If I had a choice of going to live with a foster family rather than being sent to prison, I would most probably choose being fostered. But, it all depends on the type of foster family you have. If the carers could deal with my behaviours and were flexible, I don’t see why it should be a problem.

(Young person, quoted in Lawrence, 2014)

SLIDE

A foster carer’s personality is what makes them be good in how they look after a child. I like foster carers who are kind, understanding and committed to me.

(Young person, quoted in Lawrence, 2014)
Exercise and discussion

Provide the following handout with the case study and the two questions to help stimulate a discussion.

HANDOUT: Ali and Ramy

Ali and Ramy are 15-year-old twins of Turkish heritage. They have just been placed with white foster carers. Ali and Ramy have four other siblings. Unfortunately, their parents’ relationship broke down when the boys were 10 years old, and the parents eventually separated. The boys’ lives became disrupted and their parents shared their care. However, the streets and local gangs of young people also became their “family” as they often felt neglected and rejected by their parents. They began to steal money from shops and gradually their crimes of theft became more serious, while their school attendance worsened. They got into conflict with the law as a result of committing several burglary offences, several incidents of drunk and disorderly behaviour, and a physical assault on one occasion against a police officer who arrested them.

1 Why do you think Ali and Ramy have been behaving in this way? What do you think lies behind their offending?
2 What needs do you think Ali and Ramy have which were not being met?
3 If you were Ali’s and Ramy’s foster carer, how would you begin to help them with their offending behaviour?

Take feedback from the small groups and write up the points they have made on your flip chart. Lead a discussion with the group (making the points below in Information for trainers).

Tell the participants that in future sessions you will look in more detail at what foster carers can say and do on a daily basis to meet the emotional needs of the young people in their care.

Information for trainers

If the participants have not already suggested the following points, you should make sure they are covered in the discussion.

What lies behind the boys’ offending?

- Unhappy home life (conflict probably dating from before the parents split up)
- Disruption of family, loss of stable home base, leading to feelings of sadness and insecurity
- Lack of parental care and attention – parents preoccupied with own difficulties, children left to cope alone
- Peer pressure – peers involved in criminal activity
- Poverty – wanting what their friends had but having no money to buy it
- Not attending school – long hours with nothing to do, leading them to commit petty crime
- As their needs intensified, school may have been less responsive and committed to them
- May feel angry with their parents
Alternatives to custody

- May drink as a means of (temporarily) escaping unhappy situation
- Alcohol may have led to impulsive assault on police officer
- Fear (of being arrested) may have led to assault on police officer

What needs did they have which were not being met?

- Stable home life
- The care and attention of concerned parents/other adults
- Discipline and boundaries in relation to their behaviour
- Positive role models
- Support for their moral, social and cultural development
- Education and encouragement to engage with schooling
- Hope for the future

If you were the foster carer for Ali and Ramy, how would you begin to help them with their offending behaviour?

- Provide a sensitive introduction to your home environment and day-to-day routines.
- Offer advice, information and guidance on the consequences of re-offending.
- Ensure that Ali and Ramy are safe from harm or abuse.
- Empower these young people to keep themselves safe from harm, abuse and the influences of local street gangs.
- Care for Ali, Ramy and their birth parents in a non-judgemental manner.
- Encourage school attendance and engagement with youth offending services in your country.
- Enhance the boys’ physical, psychological and emotional development.
- Set appropriate boundaries and manage behaviour without the use of physical or inappropriate punishment.

Homework

To encourage participants to reflect on what they have learned in the session, ask them to make a note of the following questions and to give some thought to them before the next session.

1. List three things you learned today that surprised you or which you hadn’t considered previously.

2. If you were to take on caring for a child in conflict with the law, what support do you think you would need? Remember that your fostering service as well as your support networks (family and friends and particular groups e.g. faith group) will be able to help.

3. Are there any changes you think you might need to make to become a foster carer? If yes, what might they be? For example, changes to your lifestyle, your work, your family, your home?

Closing the session

- Thank participants for coming along and for their attention and contributions. Tell them you are looking forward to seeing them for the next session and remind them of the date.
- You may wish to end with a short exercise to close the session (examples have been provided in the Introduction).
To close, you could read to the group the following quote on the slide below, which illustrates the potential rewards of the role for foster carers themselves.

**SLIDE**  A foster carer says:

*I often thought, when I heard about fostering children in conflict with the law, that I could never do this. Now, if I am asked about fostering, I always say it is the most fantastic, rewarding thing you can do. It’s a privilege to help a young person, even for a short period, who is frightened and anxious that they might be sent to prison and be labelled as a criminal for the rest of their life.*

(Foster carer, quoted in Lawrence, 2014)
SESSION 2: Working with others as a foster carer

What you will need for this session

All handouts are available for downloading and printing on www.baaf.org.uk/young-fostercarers-law. Password: baafEUfostering.

- A laptop computer and screen for showing the Powerpoint presentation
- A Powerpoint slide presentation, which you will need to have prepared in advance (see Introduction)
- Handouts (blank and populated), The team around the child (see Handouts)
- Handouts showing an example care plan and placement plan (see Handouts)
- A handout, Planning for a foster placement, which you will need to have prepared in advance
- The handout with a case study for discussion, titled Ross (see Handouts)

Setting the scene

- Welcome participants and go through the standard housekeeping points if necessary.
- Remind participants about the “questions” list, the flip chart page or similar, which will be on display in every session. Remind participants that they can use this at any time to write down any issues about which they would like clarification. During the course, find opportunities to respond to anything that is added to the “questions” list.

Learning outcomes

Show the following slide.

SLIDE Learning outcomes for Session 2

This session will consider:

- how foster carers work as part of the team around the child
- the legal and planning framework for children in care
- contact with family members for children in foster care
- the concept of confidentiality

Information for trainers

Foster carers are an important part of the team of professionals who are involved in the care of the child. This session considers the importance of team work in foster care and introduces participants to other members of the team around the child.

It also looks at how a plan for a foster placement is formulated – this varies across countries and organisations, so you will need to prepare a handout, Planning for a foster placement, in advance to explain the procedure in your country/organisation.

Finally, this session explores the complexities of children keeping in touch with their families. It also introduces the concept of confidentiality in fostering. You will need to be ready to outline the requirements for confidentiality that apply in your own country/organisation.
Feedback from homework

Invite participants to share their reflections on the questions that you set them for homework, which were:

1. Three things they learned during the last session that surprised them or which they hadn’t thought about before.

2. What support they think they would need, both from the fostering service and from their own support networks, if they were to become a foster carer for children in conflict with the law.

3. What changes they might need to make to become a foster carer (to themselves, their family or their lifestyle).

Thank the participants for sharing their thoughts. Explain that this and future sessions of the course will help them to understand more about the support they might need and the support that is available, as well as changes they may need to make.

Exercise

Team work

As a warm-up exercise, ask everyone to remind the group of their name and to mention a group or team to which they belong. Examples could include a professional network, a sports team, a swimming club, a neighbourhood group, a faith group, a political party, an online community.

Now ask them to say what it feels like to be part of that group or team; for example, a sense of belonging to a group of like-minded people, a sense of solidarity, a sense of shared purpose and values, shared interests. You, as the trainer(s), should take the lead and do this first. List all the words and phrases on the flip chart.

When everyone has made their suggestions, finish by saying that this brief exercise demonstrates that there is already a wealth of experience among the group of working as part of a team, with the stimulation, challenges and rewards that can follow.

Exercise

The team around the child

Provide participants with a copy of the handout titled The team around the child (see blank template in Handouts). It represents the fostered child in the middle of the page, surrounded by circles to represent the adults and children involved, professionally and personally. Ask participants to get into pairs and fill in the blank circles with the various professional roles involved in the care of a fostered child and other people who are significant figures in the child’s life. Give them a few minutes to do this and then ask the group to call out their suggestions. Participants will probably be able to suggest many of the roles themselves, from
their general knowledge, but you will need to add any roles that participants have omitted to mention. Then distribute the second handout with the circles already filled in.

The roles will vary depending on the country. For example, in England these would include the following.

**HANDOUT: The team around the child (UK relevant)**

- Child's family – parents and siblings
- Foster carers and their family
- Previous foster carers
- Other significant people in the child's life, for example, close family friends
- Child's social worker and their managers
- Education professionals
- Health professionals
- Supervising social worker for the foster family and their managers
- Independent reviewing officer
- Specialist professionals as necessary, for example, psychologist, child therapist, youth offending worker, youth worker, police officer, independent visitor, child participation officer, children's guardian.

**Fostered child**
Briefly explain the roles of the various professionals involved. Take time to explain the difference between the child’s social worker, the foster carer’s supervising social worker and the youth justice worker.

Explain that the completed handout illustrates many of the people who can be part of the multi-disciplinary team that supports a fostered child, including the foster carers, who are an integral part of the team.

Make the following points:

- Children are at the centre of the system and it is essential that the child’s views are ascertained and considered, and that decisions should give due weight to the best interests of the child (there is more information on this later in the session).
- Professionals take important decisions about a fostered child and will participate in meetings (such as placement planning meetings and reviews) where issues concerning a child’s current and future well-being will be discussed.
- Depending on the child’s needs, different team members will be called upon to play their part at different times.
- The foster carers, supervising social worker, the child’s social worker and the youth justice worker may have day-to-day involvement. Others play specialised roles as needed.
- For some children with complex needs, many people will need to work together.
- The child’s family are also strongly encouraged to play a full part in decision making, as appropriate.
- The welfare of the fostered child and the foster family depend heavily on these professional relationships working well.
- As part of this exercise, participants will have been reminded that foster carers usually need to engage with the child’s birth family, who may find this relationship difficult (this will be covered in more detail later).
- The children of foster carers play a vital role in fostering. It can be tough having parents who foster. But despite the difficulties, many children of foster carers say that fostering is a positive experience for them. (This is likely to be a concern for many participants, so explain that you will look at it in more detail later in the course.) This may be a good opportunity to briefly mention any support that your fostering service offers to foster carers’ own children.

**Exercise**

**Working together as a team**

Divide the group in half and ask one half to come up with three qualities that make a team work effectively, and ask the other half to come up with three barriers that hinder a team from working effectively. Allow them five minutes to do this.

Take feedback from the participants and write up their suggestions in two columns on the flip chart.

Explain to participants that, as foster carers, they will be part of a professional team around the child and it is important to understand what makes a team work well and what doesn’t.
Alternatives to custody

Information for trainers

Here are some suggestions – the groups may well come up with these or with other ideas of their own.

Effective team work

- Effective communication and sharing information
- Co-operation
- Shared goals
- Clarity about roles and responsibilities
- Mutual respect for each other’s roles
- Taking responsibility for their own mistakes
- Mutual support when things get difficult

Barriers to effective team work

- Poor communication skills
- Reluctance to share information or not appreciating the importance of doing so
- Different parts of the team competing rather than co-operating
- Focus on own goals to the exclusion of shared goals
- Confusion about roles and responsibilities
- Professional jealousy
- Lack of respect for others’ roles
- Failure to support each other, blaming and bullying

Presentation

The care plan and placement plan

Introduce participants to the importance of planning the care of children.

Explain that in some countries (e.g. England and Wales) there is a “care plan” drawn up for every child in care. This key document is drawn up by the child’s social worker with input from others in the team around the child, including the child, their foster carers and, where appropriate, the child’s family.

Reassure participants that when they begin to foster they will learn more about the terminology surrounding fostering and they will have access to appropriate learning.

Show the following slide.

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SLIDE Why is a care plan needed?

The care plan helps foster carers to understand what the current and longer-term plans are for the child, and what the objectives are for their specific foster (or other) placement. The care plan sets out how the child’s needs should be met.
Presentation

What a care plan should cover

- It is a key working document.
- It sets out what the child’s needs are and how they should be met.
- It brings together information from all relevant assessments that have been carried out on the child and their birth parents.
- It is reviewed regularly by social workers.
- It is drawn up by the child’s social worker with input from others in the team around the child, including the child, their foster carers and, where appropriate, the child’s birth family.
- If possible, it should be prepared before a child comes into foster care. If not, it must be completed within a short time of the child coming into care.
- The care plan helps the foster carers to understand what the current and longer-term plans are for the child, and what the objectives are for this placement.
- Foster carers should be given a copy of the care plan and be clear about their role in implementing it.

(Department for Education, 2010)

Provide participants with a copy of the handout, *An example care plan*.

If your agency or service does not prepare a care plan, you may want to suggest introducing it as it is considered to be good practice elsewhere.

Care planning for children in conflict with the law (in England)

- The care plan for children who are fostered solely as a result of being remanded can be briefer because they will be with a foster family only for the period they are remanded.
- Care plans for other types of placement will need to be more comprehensive.
- Consideration must be given to what longer term support or accommodation the child will need following the remand episode.
- If children need to be cared for by a foster family once the period of remand has ceased, then the responsible authorities must develop a plan for permanence as previously explained.
- Children remanded to local authority accommodation may also be subject to other conditions set by the court, such as a general curfew.
- Some of these conditions may be monitored electronically.

(Department for Education, 2014)

Show the following slide.

**SLIDE** The placement plan

- Sets out the day-to-day care of the child in the current placement
- Provides clarity for foster carer and child about roles and responsibilities
- Sets out which decisions foster carers will have responsibility for
- Contains details of health, education and contact arrangements
Alternatives to custody

Information for trainers

- The placement plan should clearly outline which decisions will be delegated to the foster carer alone (in England, this is called “delegated authority”) and which decisions will have to be made in consultation with other professionals or the child’s family.
- Foster carers should be given a copy of the placement plan.

Provide participants with a copy of the handout, An example placement plan.

If your agency or service does not prepare a placement plan, you may want to explain that their use is considered good practice elsewhere.

Presentation

Safe caring

Explain that foster carers need to have sufficient information about the child, so that they can keep the child and all members of their household safe. Therefore, foster carers will need to know the circumstances leading to the child coming into foster care, have a clear understanding of the child’s previous experiences and their impact on the child’s development.

Before a young person is placed with a remand foster carer, social workers should assess the current risks associated with them, and ways in which this risk can be managed. Examples are given on the slide that follows. Explain that you will return to this in later sessions.

SLIDE Safe caring

- Is there evidence (past and present) that the young person is at risk of being vulnerable or exploited?
- Are there indicators (past and present) that the young person is at risk of self-harm or suicide?
- Are there indicators (past and present) that the young person may cause harm to others?

Information for trainers

- Is there evidence (past and present) that the young person is at risk of harm as a result of bullying, abuse, neglect, intimidation, sexual exploitation, loss or bereavement, drug/alcohol use, violence, absconding, non-compliance with medication, disengagement from mental health services?
- Are there indicators (past and present) that the young person is at risk of self-harm or suicide?
- Are there indicators (past and present) that the young person may cause harm to others? For example, conviction for a serious offence, use of weapons, targeting individuals, desire for revenge or control, discriminatory beliefs, fascination with violent paraphernalia, association with dangerous networks or individuals, unstable mental health, arson, fire setting, hostage taking, sexual offences, cruelty to animals, threats of harm to others, stalking/harassment of others?
(Adapted from ‘Initial risk assessment checklist’, North London Adoption and Fostering Consortium, Remand Fostering Scheme, 2014)

**Presentation**

**Children’s participation**

Show the following two slides.

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**SLIDE Why is children’s participation important?**

- Article 12 of the UNCRC established children’s right to participate in decision-making affecting them.
- Children need to be listened to and make their wishes and feelings known.
- If a child has been actively involved in decisions affecting them, he or she is more likely to engage with whatever plans are made for them.

**SLIDE Children’s participation and the role of the foster carer**

- How can you help the child to make his feelings and wishes known?
- How can you find out what children want and advocate for them?
- You may have to help the child understand why she cannot always have what she wants.

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**Discussion**

Discuss the points below.

- Carers need to think about how they can assist the child to both share with them their wishes and feelings and then communicate these to the wider team, and how they can involve children in decisions that are relevant to them.
- Foster carers are in a unique position to form views about the development and progress of the children in their care and to advocate on their behalf. They should be prepared to contribute their views about the child at review meetings, and any others at which significant decisions are discussed.
- In England, an “independent reviewing officer” has responsibility for ensuring that a child’s wishes and feelings are taken into account at review meetings.
- If a child has difficulty in expressing their wishes and feelings about a decision being made about them, in England an “advocate” (someone independent of the team around the child and the child’s birth family) may also become involved.
- Listening to children does not mean that children always get what they want! The child’s best interests should remain paramount and it is the responsibility of the team around the child to ensure this.
Presentation

Contact between foster children and their families

Foster carers play an important role in facilitating contact. Show the following slides, which explain what contact is, its purpose, children’s feelings about this and contact in remand fostering.

SLIDE Contact in foster care

- Contact refers to ways in which fostered children stay in touch with those who are important to them, such as their family of origin. It can be carried out through face-to-face meetings as well as through letters, telephone calls, email and social media.
- Most children in foster care will have contact with one or more members of their family.
- Children should have contact with their family and significant others, where this promotes their best interests.
- If contact might not be beneficial, it will need to be carefully reviewed and, if necessary, restricted.

SLIDE What is the purpose of contact?

- Contact is for the benefit of the child or young person as it helps them to keep links with their families.
- It maintains a sense of their identity and heritage, and the child or young person has a sense of continuity in their lives.

SLIDE Children’s feelings about contact

- Children and young people who are fostered often say that they want to stay in touch with their parents and particular members of their extended family.
- Sometimes they may feel uncertain or they may be unclear about how often they want contact or what form it should take.
- Anxiety or tension will often arise for children when they have contact, so it needs to be carefully thought about and planned.

SLIDE Foster carers and contact

Foster carers are expected to support contact with children’s families (where appropriate), but they also need to be supported by their fostering agency when any difficulties arise.

SLIDE Special considerations for contact in remand fostering

- For children in conflict with the law, contact with their family may be determined in some cases by court-ordered conditions, such as curfews, not visiting particular neighbourhoods, restricted or supervised use of mobile phones or the internet, and abstentions from drugs/alcohol.
Foster carers may value court-ordered conditions about contact as they can help prevent some disputes, particularly when the house rules are negotiated between the carers and the young person.

Contact with family members who have played a role in the child coming into conflict with the law would need to be carefully reviewed, managed and supervised.

**Discussion**

Encourage participants to talk openly and honestly about their feelings and concerns about contact and to ask questions if they are unsure of anything. Provide answers if you can. If you don’t know the answers, promise to find out by the next session. Explain what support is available to foster carers by social workers in your fostering agency with managing contact.

**Exercise**

How involved can parents be in their child’s life when they are looked after by foster carers?

Divide the participants into small groups, provide the handout titled Ross, and ask them to consider the following case study. Allow participants time for discussion. Emphasise that you simply want to hear their initial reactions to the questions on the handout.

**HANDOUT: Ross**

Ross, aged 15, is arrested by the police having committed a serious offence of theft while on bail for drunk and disorderly offences. He is interviewed by the police and on the advice of his lawyer he makes no comment to any of the questions the police ask. He is given bail by the police, so that they can investigate the offence further, with the condition that he lives with remand foster carers, he does not contact any witnesses, he does not enter a certain area of the town he lives in, and he does not go out of the house between 7pm and 7am. He is bailed to return four weeks later when the matter will either be dropped or he will be charged.

Ross’s birth mother is not happy that he will be living with a foster family because she wants him to be bailed on the condition that he lives at home with her. She wants to have a say in what food he eats while he is in foster care, wants him to be able to phone her whenever he wants, and to take him with her shopping because she has difficulties in carrying heavy bags. He is not keen to do this.

**Question for discussion**: Do you think that Ross’s mother’s requests are reasonable?

When Ross returns to the police station, the police decide to charge him as they have examined CCTV footage showing him committing the theft. Ross is charged and detained overnight to be taken to court the next day. He has pleaded that you – his foster carer – visit him in the evening in the police cell. He does not want his mother to visit him at the moment, because he feels ashamed about having lied to her regarding the serious theft he committed.

**Questions for discussion**: What would your responses be to this scenario as his foster carer? And if you were his mother?
Gather everyone together again. Ask for examples of where they differed from others in their group, and if the discussion changed anyone's mind.

**Points to cover**

- Encourage participants to recognise that there may be ways in which they would want to be involved if their own child were in foster care, but would be unhappy about if they were the foster carers. Identifying with parents' loss is helpful, but there are limits to the involvement carers should have when working with them.
- Prospective foster carers may have fears that contact could result in loss of privacy and disruption to the family. Reassure them that they will have an opportunity to discuss this in more detail with the social workers involved in their assessment, and with experienced foster carers.
- Working with parents does not mean having a permanent “open house”, but it might involve tasks that at times may feel intrusive.
- The placement plan should explain the arrangements for contact and other matters, but there will always be a need for negotiation and flexibility.
- Keeping Ross safe whilst living in foster care may be challenging, particularly because he will require a great deal of supervision.
- Working closely as part of a team with Ross’s social worker, the police, the youth offending team and his mother will be crucial for his benefit.

**Presentation**

**Confidentiality**

Give a short talk explaining confidentiality, using the slide and the points below.

**SLIDE Confidential information**

- Confidential information describes personal information that may not be shared with others without the prior agreement of the subject of the information.
- However, some information that fostered children may share with their carers will need to be passed on, whether or not the child agrees to it being passed on.

Make the following points:

- Confidentiality is a complex term relating to information sharing and consent.
- Fostering services across the UK and Europe will have their own principles and guidance regarding confidentiality and consent to share information.
- Foster carers will often deal with sensitive personal information about a foster child, especially when this information reaches them from the child, in circumstances of which other members of the “team around the child” might be unaware. When foster carers feel a child or their family is suffering or is at risk of significant harm either from others, to themselves or to others, information may be shared by foster carers, even without the child’s prior consent. This is the procedure followed in England, based on child protection principles.
• On some occasions, it will not be appropriate for the foster carer even to notify the child that information is being passed on. For example, a foster carer who becomes aware that a fostered child has committed a serious offence will need to share this information with the appropriate authorities.

• Foster carers need to consider carefully how they manage children’s personal information, both in the real world and also online.

• Foster carers will also need to think about how much they can tell their friends and family about a child in their care and also about sharing their own personal information, and that of their family, with the fostered child.

Discussion
Ask the group what they would do if they were told something by a child’s family member and asked to keep this confidential.

Information for trainers
• There is often a need to share information amongst members of the team around the child and much of this is sensitive in nature.

• Foster carers should always explain openly and honestly to children and their families how and why they may have to share sensitive personal information.

Homework
Set the participants the following tasks to do at home before the next session.
1. Consider how you can be an effective team member around the child, thinking about the positive qualities you would bring and the difficulties you might encounter.

2. What could you do to help a child feel sufficiently at ease with you to be able to express their wishes and feelings?

3. Is there a particular object, letter or photograph you have at home that means a lot to you? Please choose an item that is precious to you and bring it with you to the next session.

Closing the session
• Bring participants’ attention to the flip chart and answer any final questions, respond to any comments or suggestions.

• Thank participants for attending the session, say that you are looking forward to the next one and remind them of the date.
SESSION 3:  
Identity, life opportunities and discrimination

What you will need for this session

All handouts are available for downloading and printing on www.baaf.org.uk/young-fostercarers-law. Password: baafEFostering.

- A laptop computer and screen for showing the Powerpoint presentation
- A Powerpoint slide presentation, which you will need to have prepared in advance
- A flip chart and pens
- A black bin liner
- The handout *Frank* (see Handouts)

Setting the scene

- Welcome participants and go through the standard housekeeping points if necessary.
- Remind participants about the “questions” list, the flip chart page or similar that will be on display in every session.

Learning outcomes

Show the following slide.

**SLIDE Learning outcomes for Session 3**

This session will look at:

- The concept of identity
- The impact of prejudice and discrimination on the life chances of children
- The foster carer’s role in helping children develop a positive sense of identity and in helping to build their self-esteem
- Some of the experiences of children who are separated from their families and in conflict with the law

Information for trainers

This session aims to highlight the different factors that create a sense of identity and their importance. Children in residential and foster care have, in most cases, experienced more adversity than other children. And by definition they have been separated from their families of origin, often suffering multiple changes of school and friends. Children in foster care are sometimes discriminated against because of certain aspects of their identity, including their ethnicity (e.g. Roma children and young people), their status as an asylum seeker, or because they have been in conflict with the law, or simply because they are in foster care.

The presentations in this sessions focus on general issues of identity and discrimination. Sometimes examples are provided from the English context, but you should feel free to give examples that may be pertinent to your own country or to your fostering service, e.g. from the realm of current socio-cultural issues and ethnicity.

This session will help participants to understand the concept of identity and to appreciate...
that foster carers have the opportunity to be a positive influence in helping children in their care to develop a self-identity of which they are proud.

Foster carers can also help children to challenge discrimination wherever it occurs and, where necessary, be advocates on their behalf.

**Feedback from homework**
Remind participants of the question you set them for homework, which was to consider how they can be an effective team member around the child, thinking about the positive qualities they would bring and the difficulties they might encounter, and how you could help a child to express their wishes and feelings.

Ask a few members of the group to share their thoughts on this. If you feel you have anything helpful to add, you can respond to what they have said. Otherwise, just thank them and say that it is good to be aware of the importance of individuals within teams working constructively together towards a common goal – in the case of fostering, this is the well-being and life chances of a child or young person – and the importance of listening to children.

You also asked the participants to bring in an object or photograph that they feel represents an important part of their own identity. *Do not ask them about this or mention it at all.* The point of this exercise (which will become clear at the end of the session) is that it is a way of getting participants to empathise with how it feels when a certain aspect of your identity is devalued by other people. If anyone mentions the object they have brought, just say casually that you will look at it later.

**QUICK-THINK**

**What is identity?**
Ask participants to call out what factors contribute to a person’s identity. Write these up on the flip chart and move on to the presentation.

**Presentation**

**Identity: past, present and future**
Use the two slides below to make a short presentation to the group.

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**SLIDE What do we inherit from our family?**

- Country and community
- Ethnicity
- Faith or religion
- Language
- Cultural and family traditions
- Personal appearance and characteristics
Alternatives to custody

SLIDE Identity

- Identity constitutes the characteristics that make a person who they are.
- These include gender, ethnicity, personal beliefs, interests, marital status, education, and more.
- Identity is not static; it changes and evolves over time.
- An individual’s identity is made up of their past (heritage), their present (who they are now) and their aspirations (or the aspirations that others have for them) for the future.

Information for trainers

Make the following points about identity.

- We can make decisions about many things which, together with our heritage, add up to our identity – for example, our beliefs, work, interests, friendships, education, choosing to be a parent, choosing to live alone or with a partner, lifestyle choices.
- In the UK there is a wealth of different kinds of families and lifestyles, such as two-parent families, extended families, stepfamilies, adoptive families, single parent families, lesbian and gay families and those who live together and are not married. Each family will pass on its own traditions, practices, customs and beliefs that form part of its shared heritage.
- Some children and young people who use online social networks choose to represent themselves online differently from the way they do in “real life” – in their online persona they may behave and express themselves differently from their “real life” self. Especially in adolescence, young people often experiment and try out different identities while they are working out who they are. And sometimes young people prefer to be in an artificial virtual world where they can feel more comfortable being someone else, if only for a while.

Presentation

Tackling difference

Show the following slide.

SLIDE Prejudice, discrimination and diversity

What is prejudice?

The act or state of holding unreasonable preconceived judgments or convictions. An adverse judgement or opinion formed unfairly or without knowledge of the facts.


What is discrimination?

The unjust or prejudicial treatment of person or groups of people because of a particular characteristic, for example, on the grounds of ethnicity, age, sex, disability or sexuality.
What is diversity?

Diversity recognises that although people have things in common with each other, they are also different in many ways; managing diversity is about valuing everyone as an individual, as employees, clients and customers.

- An individual’s identity is central to who they are.
- Devaluing or taking away an individual’s identity can be extremely hurtful and destructive.
- Prejudice is often associated with bigotry and intolerance. In this context, it means forming hostile attitudes about people and groups unfairly without getting to know them or their circumstances.
- Prejudice can be based on, for example, skin colour, belief systems, age, gender, ethnicity, sexuality, class background or occupation.
- Discrimination affects people’s chances in life by putting up unfair barriers to jobs, housing, education, social acceptance, services and more.
- Diversity should be valued and celebrated.

Information for trainers

The level of detail you need to go into regarding discrimination will depend on the experience and knowledge of your participants and your local context. If appropriate, you should give examples of prejudicial attitudes of discrimination in your society.

Presentation

Identity, self-esteem and foster care

Show the slide below.

SLIDE Identity and foster care

- You may be fostering children from a different ethnicity, culture or social background from your own, or who are gay or lesbian.
- Some of the children may have been brought up by or with people who have rejected them or belittled them because of these aspects of their identity.
- Some of them may have experienced prejudice and discrimination from wider society.
- Children in conflict with the law are often labelled by society as delinquents or “deviant”, which affects their self-esteem – they can sometimes feel as if they have been cast out of the mainstream world.
- Part of your work is to help them accept and be proud of the things that make them who they are.
Information for trainers

- Some children may have grown up in a family in which their identity has not been valued – for instance, a child may have been belittled or rejected by other family members for having a disability, for being gay/lesbian, or for being of mixed heritage in a family in which the other children are not. Foster carers can begin the process of helping the child to be proud of his or her heritage. They have a crucial role in helping children make sense of and appreciate their heritage, form a strong sense of who they are now, and develop and realise their plans for the future.

SLIDE Influence of foster care on identity

- Foster care can complicate the process of forming a positive identity because it separates the child from their own family.
- It also makes the child a “child in care”, i.e. bestows on the child another layer of identity.
- However, sometimes the birth family or the young person’s peer group is involved in harmful and criminal behaviour, and the young person may have identified with this – in these circumstances, separation could be helpful.
- Foster placement could be an opportunity to begin to form a more positive sense of self.

Information for trainers

For children in residential and foster care, separation from family and friends can complicate the process of forming a positive identity. It also brings about a new and possibly unwelcome aspect of their identity – namely, as a child in care.

However, for young people who identify with criminal family members, peers or gangs, moving away from those influences and into foster care can be an opportunity to begin the process of forming a new and more positive identity.

SLIDE Influence of foster care on self-esteem

- Children may have been given negative messages about themselves, their sex, their ethnicity, culture, sexual orientation or disability or they may have been told they are worthless or stupid.
- These children may have grown up with low self-esteem – they may feel unloved and unlovable.
- Foster carers may need to encourage children to feel positive about their identity and proud of their talents and abilities while accepting their limitations.
- By showing the child you accept him and value him for who he is, you can help the child in your care to develop a strong sense of self-worth.
Exercise
Raising self-esteem

Provide participants with the handout titled Frank, below (see Handouts).

HANDOUT: Frank

Frank is 15 when he comes to you in a foster placement. His parents do not seem very interested in him. He is in trouble with the police for stealing mobile phones from shops (he was made to do this by some older youths, who were selling them on) and for attempting to set fire to one of the shops from which he stole the phones. He seems to have few friends. He is withdrawn and spends a lot of time in his room. He doesn’t say much and will not make eye contact with adults. His teachers say he has very little confidence in class. When you asked him about school, he told you that he’s stupid. When you asked him what sports he likes doing, he said: ‘Nothing. I’m rubbish at everything.’

Show the following slide and invite one of the participants to read it aloud to the group.

SLIDE

Sensitive caregivers create situations in which their children can feel a sense of achievement, accomplish tasks, receive praise and experience themselves as valued and special. This may involve providing a great deal of additional support to the child, conscious effort and a focus on the detail of daily life.

(Beek and Schofield, 2006)

Ask the participants, in small groups, to think of small things they might do, on a day-to-day basis, to help to build 15-year-old Frank’s self-esteem.

After a few minutes, ask them to share their ideas with the group. You could add the ideas below to those the participants have suggested.

For example:

- Be interested in him and his views. Find times when he may be slightly more willing to talk and, when he does, listen to what he has to say with interest and respect.
- Find a task that he is willing to help you with (like washing the car) and give him lots of thanks and praise for his hard work.
- Ask him to show you how to do something, for example, on the computer if he has computer skills, or fixing your bike – thank him for his time and praise him for knowing how to do it.
- Show him that you enjoy his company – suggest that he comes out of his room and into the main family room to watch a film with you, or go to the cinema together if a film is showing that you think he might like.
Alternatives to custody

- Help him to learn a new skill by working alongside you, for example, cooking a meal or wrapping presents. Praise him for doing this and tell him how much you've enjoyed the meal or how good the presents look.
- Give him responsibility for something, like doing his own laundry or caring for the family pet, and praise him for this.
- Liaise with his teachers to see how you might support him with his schoolwork and school activities.
- Encourage him to keep in touch with the friends he has (if appropriate, and if they are a positive influence).
- If he ever does express any interest in a particular sport, hobby or activity, try to arrange for him to be able to try it (in a safe and supportive environment).
- Talk about him in a positive way to other people (in his hearing).

Point out that improving a child's self-esteem is obviously going to take a long time but that it is well worthwhile for foster carers to do whatever they can in the time that the child is with them. This period in the child's life could be much more positive than what has gone before, and it could make a difference to what comes next.

Film and discussion

Show the slide below.

**SLIDE** How do children feel about being in foster care?

**Discussion**

Ask participants to share the thoughts they have about how children might feel about being in foster care.

Ensure that the following points have been covered:

- Each child is an individual and their experience of being fostered will be unique.
- It is important to listen to children and hear their views. Children's views should be considered when making decisions about them, but the best interests of children need to remain paramount.
- Children may be anxious and fearful about moving into foster care, even if their experiences at home with their parents have been hurtful. Foster carers need to empathise with the child and their feelings about moving into unfamiliar surroundings with “strangers”. They may present as defiant or aggressive, but such behaviour may be a front in order to mask their anxieties about an uncertain future.
- Once children are given a label, for example, “young offender”, they are viewed as such by society. This serves to discredit them and may compromise their ability to function as fully integrated members of society.
Exercise

This is a rather unusual exercise to end the session. Its aim is to demonstrate to participants that it is important to us to have our identity acknowledged and valued by others. The hope is that in some small way it will help participants to reflect on how a child might feel if important aspects of their identity were to be completely disregarded.

- Participants have brought along to this session something that represents a part of their identity that is important to them, an object that is meaningful to them. They have probably been waiting (some quite impatiently!) for you to get around to asking them to show or talk about this object to the group. Instead, of course, you have ignored these emotionally significant objects until now, the very end of the session.

- Put the bin bag in a visible place in the room. Ask everyone in the group to put their object into the bin bag.

- The idea of putting their emotionally significant object into the bin bag will come as a shock, when they probably expected it to be treated respectfully. Some people may even get annoyed or refuse to place their item in the bin bag. If anyone refuses, ask them to write down what their item is on a piece of paper and put that in the bin bag instead.

- When all the group members have put their objects into the bin bag (or as many as you can persuade to do this) ask the group how they are feeling now. How did they feel when you ignored their emotionally meaningful objects for the whole of the session and then told them to put them into a bin bag?

- People may say they felt, for example, annoyed or puzzled or upset. Validate and empathise with their feelings.

- Explain that you deliberately treated their precious objects this way in order to help them to an important realisation – in other words, you wanted to help participants to understand and empathise with how a child might feel if aspects of his or her identity were ignored or devalued or treated with a lack of sensitivity. Explain that you hope it has helped them to recognise that, when a child leaves his or her home and family to go into foster care, carers have a serious responsibility to respect the child’s identity and be sensitive about the things that are important to the child.

- Point out that this exercise lasted a very short period of time, in a training environment where it was unlikely that their possessions would come to harm, yet it still had a powerful effect.

- The children the participants will be looking after will be facing separation from family, friends, familiar places and objects that are meaningful to them and that have been important parts of their identity. This will affect how they think, feel and behave in their foster care placement. Foster carers need to recognise and be sensitive to this.

- Tell participants that when children are moving, a black bin bag – with its connotations of “rubbish” – is not a good way for them to be expected to carry their belongings from home to a placement or from a placement to somewhere else. Although it is considered inappropriate and very bad practice now, in the UK children’s belongings, or some of them, in the past were placed in such rubbish bags when they moved between placements. It implies that their few possessions – which may be extremely important to them and may be all that they own – were not considered important by others. Fostering agencies in the UK
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advocate that foster carers always buy suitcases for children to ensure that this practice does not recur.

- Return the items from the bin bag to their owners. Thank them for taking part in the exercise.

**Homework**

Ask participants to think about ways in which they could support a child in conflict with the law and who comes from an ethnic and/or class background different from theirs to develop a strong and positive identity. Ask them to write down some of their ideas and bring them to the next session.

**Closing the session**

Now invite anyone who wants to do so to show the group the object they brought to the session and explain why it is important to them and what it says about their identity.

Thank group members for attending the session and say that you are looking forward to the next one. Remind them of the date.
SESSION 4: Understanding and caring for children in conflict with the law

What you will need for this session

All handouts are available for downloading and printing on www.baaf.org.uk/young-fostercarers-law. Password: baafEUfostering.

- A laptop computer and screen for showing the Powerpoint presentation
- A Powerpoint slide presentation, which you will need to have prepared in advance
- A flip chart and pens
- Handout: Attachment patterns (see Handouts)
- Handout: Creating a secure base (see Handouts)
- Handout: The caregiving cycle (see Handouts)
- A copy of your fostering agency's policy for responding to undesirable behaviour (if possible, you could provide a copy for each person as a handout)

Setting the scene

- Welcome participants and go through the standard housekeeping points if necessary.
- Remind participants about the “questions” list.

Learning outcomes

Show the following slide.

SLIDE Learning outcomes for Session 4

This session will:

- Provide a basic understanding of attachment
- Explain the importance of providing a “secure base”
- Help you to think about how to promote positive behaviour in children and young people
- Help you to think about how to manage undesirable behaviour in children and young people

Information for trainers

When children exhibit difficult behaviour, this often stems from the child’s past experiences. This session explores the concept of attachment and what sort of attachments a child in foster care may have had in the past and may have now. It also looks at the importance of providing a secure base for the child, based on attachment theory and research and Gillian Schofield and Mary Beek’s work on foster care (2014).

This is an important session in helping to build the confidence of participants as prospective foster carers. It will help them to understand and empathise with the experiences of children and young people as well as encourage them to reflect on their own reactions, so that they can develop sensitive and supportive responses to encourage positive behaviour.

This session provides foster carers with some practical ideas and strategies that will help them strengthen and promote children’s capacity to change. The message to foster carers should be that, in spite of their difficult backgrounds and behaviour, with the right support children have the capacity to change and to become more resilient.
Feedback from homework

Take feedback from the homework. Listen to people's suggestions about how they could promote a strong and positive sense of identity in a child from a different ethnic background.

Here are a few suggestions that you could add, if they are not mentioned by any of the participants:

- Be interested in the child, try seeing things from his viewpoint – asking about his family's cultural traditions and celebrations, his friends, who he aspires to be when he grows up, what music he likes to listen to, and so on.
- Visit neighbourhoods or towns which reflect the culture, religion and heritage of the young person you are caring for.
- Ask her what food she is used to eating and perhaps try to cook some of these dishes (or get her to teach you!).
- If he has a religious faith, ask him what he needs you to do to support him, e.g. if he has any particular dietary requirements or if he would like to attend a place of worship.
- Seek out positive role models (e.g. among people from the same ethnic group or community) who might encourage and motivate her.
- Seek out films and television programmes to watch together or books to read that present people from his ethnicity in a positive light or celebrate their achievements.
- If there are negative stories in the media or locally about people from her background or ethnicity, explain why you don't feel that these people are representative of the majority (or why the stories may be inaccurate, if this is the case) and make it clear that you don't share these views.
- If he is subject to racist bullying or discrimination in the local community or at school, you can support him and advocate for him in fighting it.

Presentation

Attachment

Give a presentation introducing attachment, using the slides and information below. Explain that foster carers, as professionals within the team around the child, need to be familiar with relevant theory and research to inform their work with children. “Attachment” is a key concept that is used widely in child development and particularly in fostering and adoption, so it is important for foster carers to understand it.

SLIDE What is attachment?

- Attachment is the biological drive a child has to seek closeness to a particular caregiver/group of caregivers.
- It develops in babyhood.
- “Attachment behaviour” is what the child does to get an adult to respond and stay close, e.g. crying, smiling, gurgling, following.
- The function of attachment behaviour is protection, plus physical and emotional survival.
**SLIDE** How secure attachment develops

- Babies are biologically programmed to seek the care of an adult (caregiver) in order to survive.
- The caregiver is reliably available and responds sensitively to the baby's needs.
- Knowing they have a loving and protective caregiver means that babies feel safe and secure. They learn to trust the caregiver to meet their needs.
- Successful care-providing interaction between parent and child, from babyhood onwards, leads to a strong attachment. (Dibben et al., 2014)

**Stages of attachment**

Children reach these stages at slightly different times, just as they reach physical milestones at different times.

- The child can differentiate one person from another from birth.
- Up to six months, the child may show preference for one person but will accept care from different people.
- At about seven to 10 months, the child develops a specific attachment to one or more people.
- At 10 to 18 months, attachment is intensified. Distress is alleviated only by the object of attachment – child responds to a small group of trusted, familiar adults.
- At 18 months to 2 years, the attached child can explore the world around, providing that physical access to an attachment figure is maintained. Danger/distress causes child to need to return quickly to base (trusted adult).
- At 3+ years, attachments are strong/secure (experience has taught that the attachment figure continues to exist when out of sight but will come back). Dependence decreases. Child can cope with short separations (hours).
- At 4 to 5 years, the child can cope with longer separations but distress/danger still triggers the need to return to base.
- The securely attached child develops trust in self/others/world.
- Even where the child has a secure attachment, repeated or prolonged separation from attachment figures causes distress and anxiety and halts development. (Dibben et al, 2014)

**SLIDE** Why is attachment important?

- A strong attachment is vital for a child's healthy development in many different spheres.
- Attachment is also key to helping a baby begin to learn how to regulate emotion.
- If early attachments have been dysfunctional, the child may have distorted perceptions of adult-child relationships.
- Unmet attachment needs can affect the way the child thinks, feels and behaves for years to come.
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**SLIDE Types of attachment**

- **Secure attachment**
  - Caregiver is consistently available, sensitive and responsive.
  - Child feels safe and can explore, using caregiver as secure base.
  - Child feels loved and lovable, confident and competent.
  (Adapted from Beek and Schofield, 2006)

- **Avoidant attachment**
  - Caregiver consistently ignores or rejects child’s emotional needs.
  - Child does not show emotions but is angry and anxious and doubts his own loveability.

- **Ambivalent attachment**
  - Caregiver is unpredictable and inconsistently responsive.
  - Child feels needy and anxious but also angry and may resist comfort when it is offered.

- **Disorganised attachment**
  - Caregiver is the cause of distress or fear and fails to protect child.
  - Child is afraid and develops a need to stay in control in order to feel safe.
  - Child feels unloved, sees others as hostile, becomes controlling.
  (Adapted from Beek and Schofield, 2006)

**A strong attachment**

What happens to the child during the first weeks and months shapes the way the brain develops and has a profound effect on every aspect of development. If all goes well, the baby develops a sense of trust and security.

A strong attachment can enable a child to do the following:

- **Attain his/her intellectual potential**
- **Sort out what he/she perceives**
- **Think logically**
- **Develop social emotions**
- **Develop a conscience**
- **Trust others**
- **Become self-reliant**
- **Cope better with stress and frustration**
- **Reduce feelings of jealousy**
- **Overcome common fears and worries**
- **Increase feelings of self-worth**
  (Fahlberg, 1994, p 14)
Insecure, disorganised and disrupted attachments

- A baby who has experienced inappropriate care or disrupted attachments may develop attachment difficulties. This can significantly affect his or her behaviour in later childhood, their emotional development and relationships, including the ability to form new attachments.
- Where children have not been able to build an attachment properly (because their caregiver has not been responsive to their needs) the nature of their attachment patterns will vary, depending on the interaction they have or have had with the caregiver, and with their age.

Attachment patterns

In the following, Beek and Schofield (2006) describe the main attachment patterns – this is also available as a handout (see Handouts).

Secure attachment

A secure attachment between a child and a caregiver emerges when the caregiver is available, sensitive and responsive to the child’s emotional needs and demands. The child’s feelings are acknowledged, anxiety is reduced and she can explore safe in the knowledge that the caregiver will be available when needed. The securely attached child can think about and reflect on her feelings and the feelings of others. She feels loved and loveable, confident and competent.

Avoidant attachment

An avoidant attachment between a child and a caregiver emerges where a caregiver ignores or rejects the child’s emotional needs and demands. The caregiver may also be insensitive to the child’s feelings by being intrusive or interfering. In response, the child learns to avoid displaying feelings or asking for comfort. Instead, the child becomes self-reliant in order not to upset the caregiver or provoke rejection. This is a strategy for protecting the self from rejection or intrusion, but also achieving some proximity to the caregiver. The avoidantly attached child does not show emotions but is angry and anxious and doubts his own loveability.

Ambivalent attachment

An ambivalent attachment between a child and a caregiver emerges where a caregiver responds intermittently to the child’s emotional needs and demands. In response to the caregiver’s unpredictable availability, the child learns that it is necessary to make frequent emotional demands in order to achieve some degree of responsiveness. The child feels needy and anxious about her loveability but also angry and so resists comfort when it is offered.

Disorganised attachment

A disorganised attachment between a child and a caregiver emerges when a caregiver at times responds in a frightening or frightened way to the child’s emotional needs and demands. In response to this combination of uncertainty and fear in relation to the caregiver, the child learns that it is necessary to stay in control of the situation in order to feel safe. This can lead to a child–caregiver role reversal in which the child’s punitive/hostile behaviour or
compulsive caregiving behaviours (where the child cares for the caregiver) can seem to put the child in charge. The child, nevertheless, feels unloved and sees others as potentially hostile and so becomes controlling in order to survive.

(Beek and Schofield, 2006, p 32)

**Exercise**

**Who made you feel secure and safe as a child?**

Ask participants to get into pairs and allow five minutes for a discussion on who helped them to feel secure and safe when they were a child and as an adolescent, and who helps them now, as an adult.

Say that this could be someone in their family and friends network, in their community, or at work.

Ask participants to think about the following:

- What particular qualities did the person have?
- What was it this person did that made them feel secure?

After five minutes, bring everyone back to the group and take feedback. Write up the suggestions on a flip chart.

Highlight in the feedback what it was that made the participants feel safe when they were between 10 and 18 years old. Then ask them to think about an older child they may be caring for and what he or she may need to feel safe and secure as well as what they may be feeling about the loss of their attachment figure/s.
Presentation

Creating a secure base within a foster family

This presentation will help participants think about how they can provide a secure base for children and how to promote attachment and resilience.

Introduce and explain the secure base model and how foster carers can help to provide a secure base, referring to the slides and the points below. It is also available to distribute as a handout (see Handouts).

Link some of the suggestions that participants made in the exercise above to the different elements of the secure base model.

Display the following slides and explain the concepts, which draw on the work of Schofield and Beek (2014), and refer to Information for trainers below.

SLIDE Secure Base
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SLIDE Availability

Showing the child that, in their foster family, they will be safe and their physical and emotional needs will be met; listening to the child’s concerns, talking, spending time with them.

SLIDE Sensitivity

“Tuning in” to children in order to understand what they might be thinking and feeling; helping children to “name”, express and manage their feelings more positively.

SLIDE Acceptance

Accepting children for who they are, including their strengths and their difficulties. Promoting strengths, interests and activities, whilst at the same time helping them to accept that they cannot be good at everything, and that other people also cannot get it right all the time.

SLIDE Co-operation

Respecting children as separate individuals who have thoughts, feelings and intentions of their own; setting setting firm boundaries, but within these offering choice, negotiation and compromise.

SLIDE Family membership

Helping children and young people in foster care to develop a comfortable sense of belonging to two families – their family of origin and, now, the foster family (for however long the remand or intensive foster placement lasts).

Information for trainers

- **Availability – helping the young person to trust**
  Availability requires a foster care to convey to the young person that they are physically and emotionally available to meet her needs, both when they are together and when they are apart.

  When the foster carer can do this, the young person begins to trust that her needs will be met with warmth, consistency and reliability.

  Availability helps to reduce anxiety and the young person gains the confidence to explore the world, safe in the knowledge that care and protection are there if needed.

- **Sensitivity – helping the young person to manage feelings**
  Sensitivity refers to the foster carer’s capacity to tune into how the young person may be
thinking and feeling, and to reflect this back to the young person. This helps young people to express and manage their feelings more positively. The foster carer encourages the young person to speak up for and express themselves. They also help her to understand how to make good choices.

- **Acceptance – building the young person’s self esteem**
  Acceptance means accepting the young person for who they are, including their strengths and their difficulties. Foster carers must hold in mind the sense that the young person needs them to value and accept her, whatever the stresses that caring for the young person may be.

- **Co-operation – helping the young person to feel effective**
  Co-operation is a key goal of a successful caregiving relationship. The foster carer works alongside the young person, respects her as a separate individual who has thoughts, feelings and intentions of her own. It requires setting firm boundaries but also offering choice, negotiation and compromise. This, in turn, helps a young person to feel more effective and better able to co-operate.

- **Family membership – helping the young person to belong**
  Children and young people in foster care are in essence members of two families – their family of origin, and now, the foster family. They need to be able to develop a comfortable sense of belonging to both of these families. Welcoming young people to a foster family is crucial for the well-being of all foster care placements, and is particularly important for building security and resilience in older fostered children, and for those in long-term foster care.

  (Adapted from Schofield and Beek, 2014, BAAF)

However, most remand and intensive fostering placements are not likely to be longer than 12 months. It is important that remand foster carers understand that the young person placed with them will not, in general, be there in a long-term placement.

Children and young people need to feel that they can belong to both their birth family and the foster family at a level that is comfortable and beneficial to them. The balance between the two families will vary depending on the individual young person, the type and length of placement.

Remand or intensive foster carers can also promote young people's identity, help them understand and have pride in themselves and their origins, learn about their family background and history, religion and culture, and offer the chance to stay in touch after they have moved on.

Explain to participants that as all these elements of caregiving combine and interact, they form a “secure base“ for young people, which promotes security and resilience. For example, if a young person feels good about herself, she is more likely to feel effective and be co-operative.

When young people in conflict with the law begin to trust in a secure base, they will be better able to learn, develop and reflect on the impact of their offending behaviour on other people. This will take time, and it is often helpful for remand or intensive foster carers to think in terms of small steps of progress – perhaps focusing on just one or two areas at a time.
Presentation

Resilience

Explain the concept of resilience, using the three slides below. Explain that many of the things already covered in the course, such as self-esteem, a strong sense of identity and a secure base, contribute to a child’s resilience.

SLIDE What is resilience?

- Resilience is the potential to do well, in spite of adversity.
- It is a collection of characteristics that help a child cope with the effects of rejection, trauma, abuse and other adverse circumstances.

SLIDE Both individual and social factors affect resilience

- Factors at the **individual** level that affect resilience include the child’s own personal strengths, skills and attributes.
- Factors at the **social** level include support from others in the child’s network, including foster carers, teachers and other school staff, social workers, therapists and leaders of activity groups.
  (Cairns and Fursland, 2008)

SLIDE Domains of resilience

Factors that increase resilience can be seen as belonging to six domains (Daniel and Wassell, 2002):

- Secure base
- Education
- Friendships
- Talents and interests
- Positive values
- Social competencies

Secure attachment is the most stable and reliable foundation for resilience in all these domains.

Information for trainers

Children need help to feel more secure, but also to realise their potential. Although children can have difficulties and challenges, they also have strengths. Foster carers and all those who work with children and young people in foster care need to promote their capacity for resilience.

Explain that resilience can vary across the domains. For example:

- A child may be doing well at school but have few friendships.
A child may be socially very competent with lots of interests, but struggling with his or her education.

**Presentation**

**Benefits for children of sensitive, responsive and inclusive foster care**

Distribute the handout titled *The caregiving cycle*, explaining it with the help of the information below.

**The caregiving cycle**

The idea of the “caregiving cycle” (developed by Mary Beek and Gillian Schofield, 2014) can help foster carers to reflect on the care that they provide.

The people caring for a child can have a significant influence on their behaviour and their development. It is important to remember that thoughts and feelings play an important part in how we react to children's behaviour, and how children react to adults’ behaviour towards them.

The caregiving cycle demonstrates this. A sensitive and responsive foster carer observes the child’s needs and behaviour and thinks about how to meet their needs and react to their behaviour. The carer’s behaviour then influences how the child thinks and reacts to them.

As an example: suppose a young person is highly restless and anxious the day before they are due to appear in a youth court for an offence they have committed. If the foster carer is able...
to think about this anxiety from their point of view and respond in a caring and supportive way, by acknowledging these difficult feelings, providing opportunities, space and time for the young person to talk about what is in their minds, the young person’s anxiety may not only be soothed, but they will experience positive thoughts about their foster carer and their situation (such as, ‘My foster carer wants to support me, he/she seems to like me – perhaps I am not altogether a bad person after all’).

However, a negative cycle can also lead to negative behaviour. For example, if a young person’s behaviour evokes negative thoughts in their foster carer – such as ‘I’m so stressed and fed up with this young person’s difficult behaviour’, the carer’s behaviour is likely to be less accepting and more critical towards the young person. The young person may then feel neglected, develop thoughts about themselves as unlovable, and struggle to trust adults.

The importance of reflection for foster carers is crucial to their professional development. Children and young people will bring a range of assumptions, attitudes and behaviours that carers will have to work with. It is important that they remember to not simply react but to take time to think about their own responses and how they could alter or adapt these to support the child or young person as much as possible.

Presentation

Understanding behaviour: social learning theory

Give a short presentation, covering the points below. This presentation introduces the participants to some principles of social learning theory in relation to understanding and changing behaviour. It is based on the course *Fostering Changes: How to improve relationships and manage difficult behaviour*, by Bachmann et al (2014).

SLIDE According to social learning theory:

- Most behaviours are learned.
- Our behaviour is shaped by our environment and by other people.
- Behaviours can also be unlearned.

Information for trainers

- The idea that most behaviours are *learned* is central to social learning theory.
- Our behaviour is seen as being shaped by the environment around us and, in particular, by our interactions with significant others.
- This means that it can also be "unlearnt", adapted or changed.
- This is an encouraging message to give to foster carers as they should be able to use the principles of social learning theory to change some of the difficult, unacceptable or inappropriate behaviour that children might arrive with.

Show the following slide and explain it to participants.
SLIDE Consequences

- Rewards and negative consequences affect behaviour.
- Rewards make it more likely that the person will repeat the behaviour; negative consequences make it less likely.
- The concept of “reinforcement” is important for desired behaviour.
- Unintentional rewards can sometimes also reinforce undesirable behaviour.

Information for trainers

Give the following example to participants.

Imagine that you go out of your way to prepare a special meal for a friend, and they show no acknowledgement of the effort you have made. You are, perhaps, going to be less likely to put yourself out so much next time. On the other hand, if your friend responds to your meal with genuine enthusiasm or appreciation, you may be more likely to want to prepare something especially nice next time they come for a meal. In both scenarios, the other person’s behaviour impacts on your own behaviour, by either decreasing or increasing the likelihood that you will behave in a similar way.

Reinforcement

When the consequence following a behaviour is positive and rewarding, the behaviour is said to be “strengthened”, and it is more likely to occur again in similar circumstances. The technical term for this is “reinforcement”. For example, if a remand foster carer tells the child she is looking after how pleased she is with him for sharing his computer game with other children in the family home, her praise acts as a reward and will reinforce this behaviour. The child will be more likely to do it again.

When the consequence following a behaviour is negative, the behaviour is weakened, and it is less likely to occur again in similar circumstances. This might occur when a treat or a privilege is taken away, or when a sanction is imposed – for example, if the child refuses to help tidy up after the evening meal and as a consequence she has to miss a television programme.

In order for behaviour to become firmly learnt and established, it needs to be consistently and reliably reinforced. This is called “continuous reinforcement”. For example, when a young person with school behaviour problems makes an improvement, they will continue to make more progress if they are enthusiastically praised every time they receive a good daily school-to-home report.

In family life, one of the problems that occurs is when foster carers and parents fail to provide sufficient reinforcement for positive behaviour. In these circumstances, the positive and appropriate behaviour may fade away.

Unintentional rewards

Unintentional rewards for undesirable behaviour are one of the main reasons that these behaviours persist. One type of unintentional reward can occur when a negative consequence is avoided. For example, if a young person who hasn’t done his homework
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complains of an imaginary headache, saying he is too ill to go to school, his behaviour will be reinforced if the foster carer is sympathetic and allows him to stay off school. The behaviour is reinforced by the avoidance of the negative consequence (having to face the teacher and be told off for not doing the homework).

Exercise

Promoting positive behaviour in children and young people

Ask participants, in small groups, to list the approaches they currently use to encourage positive behaviour in children and young people in their family.

Take brief feedback.

Rewards

It is likely that participants suggested that rewarding positive behaviour is one way of promoting it. Ask them to have another group discussion and this time to suggest some suitable rewards for children and young people in conflict with the law, in the following age groups:

- Age 10–12
- Age 12–14
- Age 14–16

Take feedback. The participants should be able to come up with many ideas of their own, but there are also some suggestions below.

Information for trainers

Possible rewards for children and young people of different ages

Age 10–12
- Praise.
- A special treat, e.g. taking them to cinema, bowling alley or football match.
- Your time on activity of his choice, e.g. playing computer game with you.
- Joining a new club, e.g. sports club.
- Choosing what's for dinner.
- Being allowed to stay up late to watch a television programme.
- Small present, e.g. sweets, chocolate or spending money.

Age 12–14
- Praise.
- A special trip with a friend, e.g. to cinema, swimming pool.
- Extra time on computer (over and above usual allowance).
- Special treat, e.g. inviting friends to house to play video games and eat favourite meal.
- Your time, e.g. going shopping with you for new clothes.
- Small present e.g. toiletries, or spending money.
Age 14–16

- Praise.
- Allowed to go out with friend, e.g. shopping, youth club.
- Special treat, e.g. taking child (and friend) horse-riding or to a climbing centre.
- A take-away of her choice for dinner at the weekend.
- Small present, e.g. ticket to an event, or spending money.

Stress that not all of these ideas will work with every child. Some will work across all age groups, others will be more appropriate for older or younger children. When you give praise it will need to be given in an age-appropriate way – what you would say to a 10-year-old will clearly be different from what you would say to a 15-year-old.

Every child is unique – as they get to know the child, foster carers will be able to work out what type of reward would be most likely to work for that individual child.

A reward chart might help to motivate some younger children (e.g. child gets a tick or a sticker on his chart for every time he does the desired behaviour, and after a certain number of ticks or stickers he earns a reward).

**Presentation**

**Promoting positive behaviour in young people in conflict with the law**

Now discuss other ways of promoting positive behaviour in young people in conflict with the law who are in a foster placement. If appropriate, refer back to some of the ideas that the participants suggested earlier (ways in which they promote positive behaviour in children and young people in their own families).

**Exercise**

**Difficult behaviour in young people**

Tell participants that you are now going to look at difficult behaviour that children and adolescents in conflict with the law might display in a foster placement. Ask participants to discuss, in small groups, what kind of difficult behaviour they think young people might display.

After a few minutes, ask them to feed back to the group as a whole.

Refer to the slide below, elaborate on the points given and acknowledge where participants have already given examples of these particular types of behaviour.

Acknowledge that this exercise may have left foster carers feeling concerned about how they would cope with such behaviour, but explain that in the rest of the session you will go on to look at strategies for dealing with undesirable behaviour.
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SLIDE Possible problem behaviours in a foster placement

- Verbal aggression
- Physical aggression
- Conduct problems
- Emotional difficulties
- Hyper-activity
- Sexual behaviour
- Offending behaviour

Information for trainers

Children and adolescents in conflict with the law may display behaviour such as:

- **Verbal aggression**: for example, swearing/bad language
- **Physical aggression**: for example, fighting with other children, bullying with threats, physical violence
- **Conduct problems**: for example, disobedience, defiance, uncooperativeness, lying, offending behaviour, running away, aggression, and animal cruelty.
- **Emotional difficulties**: for example, episodes of depression, problems with sleeping and eating, self-harm and suicide attempts.
- **Hyper-activity**: for example, difficulty concentrating, restlessness and distractibility such as not being able to sit still, tapping the arms of chairs, constantly flicking through the television channels, jumping up and rushing off through the house, allowing doors to slam behind them, and needing to be constantly reminded to do things or finish things they have started.
- **Sexualised behaviour**: for example, inappropriate sexual behaviour such as openly masturbating, talking sexually and sexually abusive behaviour towards other young people.
- **Offending behaviour**: for example, stealing money or valuable items, bringing unexplained goods into the foster home.

Presentation

Managing undesirable behaviour

Outline the different types of consequence undesirable behaviour might have for the young person.

Information for trainers

Some behaviour is risky and requires immediate attention. This includes things that are dangerous, destructive or illegal, such as substance misuse, unsafe sex, sexual abuse of other children, self-mutilation, theft from the foster home, animal and pet cruelty, and offending behaviour whilst away from the foster home.

There are other behaviours that interfere with the young person’s growth and development, for example, refusing to eat, refusing to bathe, smoking, staying out late, drinking alcohol and taking drugs.
Some behaviours have serious consequences for the child and young person, for example, truanting from school, not taking medication regularly, destroying other people’s possessions, breaking curfew conditions.

**Responding to undesirable behaviour**

Show or (preferably) hand out a copy of your fostering agency’s policy for responding to undesirable behaviour and go through it with the group, pointing out the strategies that are suggested below as examples that foster carers could use. Encourage the participants to think and discuss in small groups other strategies they might use to deal with undesirable behaviour.

- Be clear about the boundaries and expectations that apply in your home.
- Always know where the young person is and what they are doing.
- Show care and concern, especially about the young person’s friendships.
- Get to know the child’s world outside of the home and to encourage the positives in their behaviour and discourage the negatives.
- Be aware of their peer groups and the risks, pressures and opportunities that may present for them.
- Be clear about the significance of the choices the young person makes, and the consequences that may follow from choices made.
- Encourage conversations with the young person about what has made them offend, and the choices they need to make for a better and safer future.
- Have very clear rules that are agreed with the fostering agency and which guide the foster carer’s interaction with law enforcement agencies.

These need to cover what the foster carer will do if the young person stays out late or brings home unexplained new possessions. For example, if the young person brings home a bike that they say a friend gave them, you need to make clear whether you will go to the police or always say first, ‘Let’s go and see your friend to confirm whose bike this is’.

Then give a presentation, making the points outlined below.

- Foster carers will need to learn strategies to manage the types of behaviour described. These will need to be in accordance with the fostering agency’s policies.
- Fostering agencies will have clear guidelines about acceptable and unacceptable strategies and punishments, but all agree that physical punishment must never be used by foster carers.
- Foster carers should discuss with other professionals (social workers, youth worker) appropriate and safe ways of managing behaviour.
- Managing difficult and undesirable behaviour is a recurring issue for foster carers. When they are approved, explain that further training and one-to-one support will be provided by the fostering agency/supervising social worker (if this is the case).

**Exercise**

**Managing behaviour**

Ask participants, in small groups, to think about behaviours they or their household may struggle to tolerate. Ask them to consider the following questions:

- How could they reduce that behaviour and encourage more pro-social behaviour?
Alternatives to custody

- How could reflecting on their feelings about that behaviour help them to respond differently?
  Listen carefully to the feedback.
- Have the participants come up with appropriate ideas for rewarding positive behaviour?
- Would these methods work with older children and teenagers?
- What about their ideas for reducing undesirable or difficult behaviour? Are these ideas sensible, positive and appropriate to use with older children and teenagers?

Respond to their ideas and suggestions. As mentioned earlier, ensure that the group understands that foster carers cannot use any kind of physical punishment when caring for fostered children.

You could then lead a discussion, referring to the information below.

Information for trainers

Ways of reducing undesirable or difficult behaviour and encouraging more pro-social behaviour could include:

- Developing a positive relationship with the young person, so that he wants your approval.
- Showing the child kindness and concern.
- Recognising what lies behind the difficult behaviour (e.g. fear, anxiety, anger) and addressing those feelings with the child/young person, to help her to cope.
- Praising him for alternative pro-social behaviour.
- Using other rewards for pro-social behaviour.
- Using distraction (giving the child something else to do).
- Ignoring undesirable or difficult behaviour (where appropriate).
- Asking child why she is doing it (e.g. smoking) and whether and how you could help her to stop doing it.
- Explaining to the young person how the behaviour could be risky to himself or other people, or offensive to other people, and asking him to stop.
- Explaining why the behaviour is against your house rules (which she may have agreed to at the beginning of the placement).
- Using appropriate sanctions and withdrawal of privileges.

Reflecting on your feelings about the difficult behaviour could help you to respond differently by:

- Responding in a more measured way rather than responding instantly with annoyance or anger.
- Realising that a child who makes you feel worried or frightened is probably feeling worried or frightened himself.
- Feeling less stressed as your responses to the young person’s behaviour become calmer.
- Understanding that a child who seems to be behaving badly to get attention probably needs more attention.
Presentation

The difference foster carers can make

At this point, you should try to help participants to realise that, as well as all the theories and strategies that you have presented to them, there is something intangible they can offer that could help young people to turn their lives around.

It doesn't depend on what the foster carers have read or learned (although these things can help). It is their capacity for commitment to and for nurturing these troubled young people, helping them to see themselves in a different way, and offering them a vision of a more positive future.

Show the following slides.

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**SLIDE** The difference foster carers can make

*It’s hard but immensely important to convey the real difference a carer can make through sheer commitment, the constant positive engaging with young people and with the details of their problems and concerns, and not being deterred by setbacks and difficult behaviours.*

(Jeffrey Coleman, Alternatives to Custody Project, Programme Director)

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**SLIDE** The power of relationships

*Research in the UK has found that in intensive fostering placements for young people in conflict with the law, relationships were central to the process of change for over half the young people.*

(Biehal *et al*, 2010)

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**SLIDE** Research into remand foster care in UK found:

- Foster carers were able to respond to young people’s apprehension, needs, concerns and insecurities as a result of one-to-one attention.
- There was a reduction in feelings of isolation, depression, anxiety, self-harm and suicide attempts among young people.
- Young people found after settling into the placement that it was preferable to living in a children’s home or custodial institution.

(Hargreaves *et al*, 2014)

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You can then conclude with the following slide.
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SLIDE One foster carer’s approach

When I meet the child, I say:

‘From today, hopefully this is going to be an opportunity for you to change your life, it’s down to you, we will support you and help you with anything you need…’

You have to reassure that young person that, no matter what they’ve done that led them to you today, you are more than happy to start from today and all that happened is in the past.

I say: ‘Yes, you may have a tag on, fine, not a problem. We’ll make sure you get to your appointments. Everything else is for you to just be. Just settle, rest, tread water and gather your thoughts and become the best you can be.’

(From interview with foster carer, Alternatives to Custody Project)

Closing exercise

Ask participants to spend two minutes thinking about two feelings they have about becoming a foster carer: a positive feeling and a difficult feeling.

Then ask each participant to share their feelings with the group and the reason they think they have those feelings. Ask the group whether it was difficult or easy to identify the feelings and express them.

Tell participants that it is important for children and young people in foster care to be able to accept and name their feelings and express them in appropriate ways. For example, it is much better if a young person can learn to recognise and express his anger in words rather than by trashing his room. Tell participants that they can play an important role in helping children recognise, identify and manage their feelings.

Homework

Ask participants to notice some positive behaviour from a child or adult in their household and to comment upon it and reward it in some way. Ask them to find at least three opportunities to do this before the next session, if possible.

Thank participants for attending the session, say that you are looking forward to the next one, and remind everyone of the date.
SESSION 5:
Keeping everyone safe

What you will need for this session

All handouts are available for downloading and printing on www.baaf.org.uk/young-fostercarers-law. Password: baafEUfostering.

- A laptop computer and screen for showing the Powerpoint presentation
- A Powerpoint slide presentation, which you will need to have prepared in advance
- A flip chart and pens
- A slide or handout, which you have prepared on legislation on safeguarding children in the country in which you work – see Safeguarding is everyone’s responsibility in Handouts
- A handout, which you have prepared, listing useful e-safety websites and other resources for parents and children and young people
- An example of a safer caring plan, if possible, provided by your agency (if your agency cannot provide such a plan, we have provided a sample plan in Handouts)
- The handout titled The Seven Safer Caring Principles (see Handouts)

Setting the scene

- Welcome participants and go through the standard housekeeping points if necessary.
- Remind participants about the “questions” list.
- Warn participants that some people may find the content of this session difficult: firstly, because it concerns the risk of complaints and allegations being made against foster carers – which they may find worrying – and secondly, because it deals with the distressing issues of child abuse and neglect. If any of the participants or someone close to them was abused or neglected as a child, some of this material could trigger memories or thoughts that could be upsetting for them.
- Reassure the group that if anyone wishes to take a break during this session because they are feeling upset or overwhelmed, that is fine – they should feel free to leave the room for a while. Let them know that you, the trainers, will be available during the break or after the session if anyone needs support or would like to talk to you.

Learning outcomes

Show the following slide.

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SLIDE Learning outcomes for Session 5

This session will help you:

- To be aware of the need for “safer caring” to protect children and yourself and your own family, and to be aware of the risk of complaints and allegations
- To consider potential sources of harm to children and young people and what carers can do to reduce the risk of harm (including online risks)
- To consider child abuse and neglect and how these can affect children’s behaviour
- To consider family rules; special measures foster carers and their families need to take; and what a safer caring plan should cover
- To consider the effect of foster caring on your own family and children
- To consider what a child might want to know about your family and home

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Alternatives to custody

Information for trainers

Safer caring was mentioned briefly in Session 2. Now it will be explored in greater detail, with a view to enabling prospective foster carers to become “safety aware” about the ways in which care is provided, the importance of family rules and safer caring plans, and how best to strike the balance between a proper focus on safety and normal family life.

This session will discuss the risk of complaints and allegations being made against foster carers. It will also look at what is meant by child abuse and neglect; it will look at the implications of past maltreatment for protecting children from harm in foster care. Be alert to the possibility of some participants finding either or both of these subjects anxiety-provoking or upsetting and, if this happens, consider how you can deal with people’s feelings sensitively and without too much disruption to the session.

This session will also provide an opportunity for foster carers to consider how caring for children in conflict with the law might impact on their own family. Finally, it encourages them to put themselves in the shoes of the child or young person coming into their home.

Feedback from homework

Take brief feedback from the homework, in which participants noticed positive behaviour by a child or adult member of their household and rewarded it. Discuss the effects of this on both the participants and the child/adult member of their household.

Presentation

Safer caring and risk

Show the slide below and expand on the points.

Explain that it is never possible to completely eliminate all risk; in foster care, there will always be an element of risk.

Explain that it is these reflections and this balancing exercise that makes fostering different from caring for their own children.

SLIDE What is safer caring?

- A way in which foster carers safeguard fostered children, while ensuring that at the same time:
  - they attend to the safety and security of themselves and their own family, and
  - they and their family are protected from the risks of allegations and complaints.

- It takes a measured approach to risk, so that fostered children are given the opportunity to grow and learn.

Information for trainers

Safer caring is a way in which foster carers can act to protect and care for children in foster
placements. Because care for children is provided in the foster carer’s own home, it is important that attention is given to the safety and security of foster carers themselves and their families. Well-considered childcare practice should ensure safeguards for children, foster carers and their family members.

Safer caring arrangements are very important. They need to feel as normal as possible for everyone, but they also need to take proper account of risks. Foster carers need to approach daily caring tasks in ways that help children (particularly those who have been maltreated) to feel safe but which, at the same time, take into account the fact that children in foster care (or members of their family) sometimes make complaints or allegations against their foster carers.

There are ways of managing risks without losing sight of children’s needs for as normal a life as possible, and we will look at these later in the session.

**QUICK-THINK**

**Challenges foster carers may face: complaints and allegations**

Ask participants to suggest answers to each of the following questions (show the slide).

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**SLIDE Challenges foster carers may face**

- What are complaints, allegations and standards of care concerns?
- What kind of complaints or allegations might there be?
- Why might children in conflict with the law (or their families) make complaints and allegations?

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**Information for trainers**

Research on allegations in the UK and USA suggests that around four per cent of carers will face allegations each year, but over the span of a fostering career, about 16 per cent of carers will be subject of an allegation.

One should note that there is no hard and fast line between allegations and standards of care concerns – some situations can give rise to concerns that can be defined in either or both of these ways.

Fostering agencies will need to undertake an assessment of the credibility of the allegation, and assess whether there is immediate risk as a result of this assessment. If so, the priority should be to examine what resources and strategies are available to deal with the risk, rather than to allow the allegation to precipitate the ending of the placement.

**How will agencies assess the credibility of the allegation?**

- From knowledge of the young person and their history
- From knowledge of the carer and their history
- From the facts of the allegation
There is a need to assess the impact of the allegation on the child, and ask:

- Is there any immediate direct risk to the child?
- Are there any indirect risks?

For example, if a carer is found to be involved in fraud, and the child in placement is a baby, this may not pose an immediate risk to the placement. But if the child in placement is a teenager, issues of trust and boundaries can arise, and concern about whether the carer can still act as a role model for the young person. The young person may experience a loss of trust in adults and the agency.

Carers are entitled to receive support while allegations are investigated, and for the process of investigation not to drag on in a way that increases everyone’s anxiety levels pending the outcome.

Then show the following slides, which explain more about these issues.

**SLIDE What is a complaint?**

A complaint is a grievance or dissatisfaction reported to the fostering agency by the child, or anyone connected to them, about the quality of care or any aspect of the care being provided to the child.

**SLIDE What is a standards of care concern?**

A standards of care concern is a concern raised by the fostering agency about any aspect of the care provided that is deemed to be below the required standard.

**SLIDE What is an allegation?**

An allegation is a claim from any individual that the foster carer or a member of their household/family has or may have behaved in a way that has (or may have) harmed a child, possibly committed a criminal offence against a child, or behaved towards a child in a way that indicates that they are unsuitable to foster children.

**Information for trainers**

**What kind of complaints or allegations might there be?**

1. Quite frequent are allegations that the carer pushed or pulled the young person, or twisted their arm.
2. Not being able to get into the house, for example, after school, through not being given a key.
3. The young person saying ‘The carer put his hand on my arm’, in a way felt by the young person to be inappropriate or uncomfortable.
4 Foster carer getting drunk at home.

**What kind of standards of care concern might there be?**

1 Fraudulent behaviour by the carer, for instance, a carer knowingly claiming welfare benefits to which they were not entitled. This would constitute poor role modelling in an adult for an impressionable young person in placement to witness.

2 A young person not being able to use all the common areas of the foster carer’s house, for example, if some parts of the house are reserved only for the foster carer’s own children.

3 One of the foster carer’s own grown-up children or other relative occasionally visiting or staying at the house, where there is evidence that this visiting relative is involved in crime or is coming to the attention of the police.

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**SLIDE Why might children (or their families) make complaints and allegations?**

In some cases:

- The complaints may be justified and allegations may be true.
- Parents may make complaints or allegations because they feel they are not being listened to.
- Children may do so because they are confused about their history and about who may have hurt them or frightened them in the past.
- Children may have been told by their parents to complain or make an allegation.
- Complaints and allegations may be made maliciously to cause trouble.
- A child or young person may make a complaint or allegation in order to be moved from the placement to somewhere else.

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**Information for trainers**

Remind participants that, like all professionals working with children, foster carers are accountable and open to challenge about the care they provide.

Cover the following points in your presentation:

- Concerns about poor quality care, complaints and allegations always need to be taken seriously and investigated, though it may or may not be the case that they are well-founded.
- There should be protocols and procedures in your fostering agency for dealing with complaints, standards of care concerns and allegations – all foster carers should have access to these.
- Children in foster care must be told that they can talk to social workers or other adults if they are unhappy or worried about the care that they are receiving in their foster homes.
- Keeping records of what you do as a foster carer is important – if a complaint or allegation is made, you can demonstrate exactly what you have done.

Some participants may not have considered this issue until now and may find it disturbing or worrying. A helpful training strategy is to keep the presentation concise, to inform the group that this session is just a basic introduction, to control the length of discussions, and to acknowledge their concerns and anxieties. Reassure participants that foster carers will receive
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further training and information about their fostering agency’s procedures and that support is available in the event of a complaint, allegation or standards of care concern.

Identify any support services for foster carers, whether from individual fostering agencies or more generally, which exist in the country in which you are providing the training. (For example, The Fostering Network in the UK.)

QUICK-THINK AND DISCUSSION

Keeping all the children in our family safe

Ask participants what they think are potential sources of harm to children.

Lead a discussion on potential sources of harm, show the slide and use the information below to expand on the points.

SLIDE Potential sources of harm

- Everyday accidents and hazards
- Risky people (in the real world and in the digital world)
- Dangers arising from children’s behaviour
- Sexual exploitation
- Oppressive social attitudes and negative stereotypes

Information for trainers

- **Everyday accidents and hazards** (e.g. tripping over cables, scalding yourself).
- **Risky people in the real world** (such as risky family members, peers who bully or involve fostered children in illegal behaviour or predatory strangers) and in the digital world (both adults and other children and young people who may have access to fostered children and young people online).
- **Dangers arising from children’s behaviour** (e.g. exposing themselves to risks online and through technology, illegal activities, experimental behaviour common to teenagers such as drinking, smoking, substance misuse, unsafe sex).
- **Sexual exploitation** (a type of sexual abuse in which children and young people are groomed, sometimes online, and sexually exploited for money, power or status or because they have been tricked into believing they are in a loving consensual relationship; the grooming process may involve invitations to parties where they are given drugs and alcohol but is a process often reinforced by threats and manipulations).
- **Oppressive social attitudes and negative stereotypes** (racist, sexist, homophobic, anti-faith attitudes, and prejudices against disabled people, which can lead to less obvious types of harm such as damage to a child’s self-esteem).

Discussion

**What carers can do to prevent harm**

Show the following slide and lead a discussion around these issues.
Then give participants a handout with information about legislation in your country that focuses on safeguarding children. See below for handout, *Safeguarding is everyone’s responsibility*.

**SLIDE What carers can do to prevent harm**

- All adults have a responsibility to safeguard children.
- This responsibility is even greater if they believe that children are being harmed.
- Preventing harm means dealing with risk – you need to anticipate problems, make judgements, assess the risks, and take action.
- Listen to children, be emotionally available, pay attention to what they tell you.
- Consider risks and safety for children using the internet and take steps to ensure that children can use the internet as safely as possible.

**Information for trainers**

Discuss the points (above in the slide) and ask participants to call out examples of how they have protected children from harm, both actual and potential. These can range from the everyday to particular instances. Reinforce the importance of listening to children and paying attention to what they tell you.

Then distribute to participants the handout titled *Safeguarding is everyone’s responsibility*.

**HANDOUT: Safeguarding is everyone’s responsibility – UK**

Everyone who works with children – including teachers in schools and colleges, doctors, nurses, midwives, health visitors, early years’ professionals, youth justice workers, police, hospital accident and emergency staff, paediatricians, voluntary and community workers and social workers – has a responsibility for keeping them safe.

No single professional can have a full picture of a child’s needs and circumstances and, if children and families are to receive the right help at the right time, everyone who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action whenever concerns arise.

Children are best protected when professionals are clear about what is required of them and how they need to work effectively with staff in other partner agencies. It is vital that every individual working with children and families is aware of this need to communicate well with other professionals and to have a good understanding of their roles. In addition, effective safeguarding requires clear local arrangements for collaboration between professionals and agencies.

Professionals need also to be aware of the authority in their role, and how this can be used to safeguard children as well as to support parents.

In England the statutory guidance sets out the key roles for individual organisations and key elements of effective local arrangements for safeguarding. It is very important these
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arrangements are strongly led and promoted at a local level with agencies and community services working well together.

(Adapted from the Department for Education, 2013)

Presentation

Risks and safety on the internet and social networking sites

Make the following points.

Children and young people in foster care may be more vulnerable than their peers to some of the risks posed by the internet and social networking.

Children’s parents may not have taken much interest in what they did online, or in helping them to stay safe. Children may be bad at judging risk or may actually seek out risky activities online. They may be a victim (or a perpetrator) of online bullying or abuse. They may be at risk from dangerous people who contact them online (both people they know and/or strangers who may wish to harm them or exploit them).

There are risks associated with children accessing unsuitable and damaging material online and exchanging disturbing and/or illegal images and videos on their mobile phones (e.g. violent and extremist material, images of self-harm, pornography and self-generated nude images).

However, the answer is not to try to stop young people using digital technology. We must recognise that children need and are entitled to use these technologies and to benefit from them. We should allow them to use of the internet and social media while we also help them develop the skills they need to stay as safe as possible when they are online and while we put into practice measures that will help to achieve this.

Online contact concerns for children in foster care

If contact with the child’s family members is not allowed, then it should not take place online either. But there is the potential for children/young people to have this contact online without the knowledge of the foster carers.

Foster carers should also be aware of the potential for the abuse of tracking or “find my friends” apps which may have been installed on the child’s or adult’s mobile phone (with or without their knowledge) and of other emerging risks from new software developments.

This will be discussed in more detail later in the session below, Risks from risky people.

Exercise

Keeping children safe online

Ask participants, in small groups, to discuss and come up with their own suggestions and
ideas for keeping children safe on the internet. Those participants who have children of their own are likely to have many useful suggestions to share with the group.

The suggestions and ideas can be categorised as below. Ask for feedback, write the points on the flip chart and, if necessary, supplement the group's ideas with some of the suggestions below. This is not an exhaustive list.

Internet safety and social networking is a huge topic, beyond the scope of this course. Tell participants if your agency offers further training on these issues to foster carers. There is a wealth of information online which will be helpful to foster carers to help them learn more, to understand what kind of approach is likely to be most effective, and to share with children and young people, e.g. by watching short films together. You may also like to provide a handout listing useful e-safety websites and other resources for parents and children and young people.

**Presentation**

**Learning about the child from the social worker**

- Before the placement begins, the child's social worker should tell you about any previous issues there may have been relating to social media.
- The child's placement plan should address issues relating to digital technology and social media, for example, what devices (mobile phone, laptop, games console) the child will be bringing with him or her, what sites and applications the child is allowed to use, and what rules and precautions might be necessary.
- Foster carers should also discuss any other issues such as whether they and their children should become “friends” with the child on social networking sites.

**Talking and listening**

- Take an interest in what the child does online. If possible, get him to show you what games he likes to play, what websites and social networking sites he likes to use, and who his online “friends” are.
- Try not to be negative about it or focus entirely on the risks.
- Discuss online risks with her – how aware is she? How much information does she share online, and does she know who can see her information? Does she “friend” people she doesn’t know? Does she share her address or current location, and does she understand why this could be risky?
- Ask about bullying – would he know what to do if he was being bullied online?
- Explain that if she ever has any difficulties online or if she gets into trouble, she should tell you about it and you will help.
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Technological solutions

For example:

- Using safety settings and parental controls on all devices (including mobile phones, games consoles, etc).
- Using filtering (to screen out unsuitable websites), monitoring (if appropriate) and other technological solutions, for instance, to limit the time a young person spends online.
- Using privacy settings on social networking sites.
- Knowing how to “block” people on social networking sites and phones.
- Knowing how to print out or take a “screenshot” of any bullying or abusive message or threat (in order to keep it as evidence).

Rules and agreements

- Have a family agreement (which applies to everyone in the household) about use of the internet, e.g. safety guidelines, rules about not accessing online pornography, not sending aggressive or bullying messages, and children telling an adult if they are being bullied or if someone has said something that makes them feel uncomfortable or worried.
- Have a separate agreement for each child or young person in the household that is appropriate to their age and maturity. It should outline what you expect from them and what they can expect from you. Create this in discussion with the young person, explaining that it is your responsibility to keep them safe. If it is considered necessary and appropriate by the child’s social worker, you may wish to put certain measures and limitations into the agreement, for example, to limit how long he can be online each day, or to explain that you may need to monitor what he does online, and why.
- These arrangements can form part of the foster carer’s safer caring plan (which will be discussed later).
- If you have any concerns about what the child is doing online or who she might be in contact with, inform your supervising social worker and/or the child’s social worker.

Information for trainers

Foster caring involves identifying and dealing with a lot of challenges. Many children in foster care will have been neglected or abused by other adults. As a result, they show a range of difficult and challenging behaviour, from sleep problems to rage, aggression, offending behaviour and a failure to empathise with others.

Fostered children have been separated from their families. The environment that should have been the source of their safety has disappeared. These are children who are very vulnerable.

Foster carers are also vulnerable. They conduct a publicly accountable activity – looking after children in public care – in a private space, the foster home. They are adults looking after children who may have been ill-treated or abused by other adults.

Whilst children in conflict with the law may or may not have been abused, they are extremely likely to have experienced a range of adversities. Their previous relationship with and expectations of their parents may have been negative.
Safeguarding vulnerable children is always challenging. Foster carers must carefully consider the decisions they take because they often need to explain the basis of their actions to their fostering agency.

Remind foster carers that they cannot use physical punishment of any kind when caring for fostered children.

**Presentation**

**Why do foster carers for children in conflict with the law need to know about child abuse and neglect?**

Make the following points to the group.

Children who are fostered are frequently described as a particularly vulnerable group, because many of them have been removed from their families for their own safety after suffering neglect or abuse. Children who come into foster care because they have been in conflict with the law may share some of the same vulnerabilities, but in many cases they have their own distinct needs, and may have travelled along a different path before needing intervention from the care system.

Experts in this area say that foster carers find that, on the whole, children who have been in conflict with the law are actually easier to care for than those children who are in foster care for “welfare” reasons. This may be surprising to some people. But in these cases, when the “welfare” reasons reflect the devastating impact of early neglect and abuse on children’s developing brains and how it affects their emotions and behaviour and the way they relate to other people, perhaps this is not so surprising.

But it is important for foster carers of children and young people in conflict with the law to understand the impact of abuse and neglect, because inevitably a number of the children and young people they foster will have experienced these things.

**QUICK-THINK AND PRESENTATION**

**What is meant by child abuse and neglect?**

Use the slide below to ask participants to suggest examples of actions that might fit into each category of abuse or neglect. Write down their suggestions on the flip chart.

**SLIDE What actions might constitute the following types of child abuse?**

- Physical abuse
- Emotional abuse
- Sexual abuse
- Neglect
Give a presentation explaining the different types of abuse and neglect to the group, covering the points below.

Remind them that some of the children or young people they foster will have experienced past abuse or neglect – even if they are in foster care as an alternative to custody.

Explain that all abuse takes place in the context of an imbalance of power between the person experiencing it and the perpetrator.

**What is child abuse?**

Child abuse falls into one or more of four categories: physical abuse, emotional abuse, sexual abuse and neglect.

**Physical abuse**

Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to a child.

**Emotional abuse**

Emotional abuse is the persistent emotional ill-treatment of a child such as to cause severe and lasting effects on the child’s emotional development, and may have involved:

- conveying to a child that he is worthless, unloved, inadequate, or valued only insofar as he meets the needs of another person;
- imposing developmentally inappropriate expectations, for example, interactions beyond the child’s developmental capability, overprotection, limiting her exploration and learning, preventing the child from participation in normal social interaction;
- causing a child to feel frightened or in danger, for example, witnessing domestic violence, seeing or hearing the ill-treatment of another.

Some level of emotional abuse is involved in most types of ill-treatment of children, although emotional abuse may occur alone.

**Sexual abuse**

Sexual abuse involves forcing or enticing a child to take part in sexual activities, including sex working, whether or not s/he is aware of what is happening.

Activities may involve physical contact, including penetrative and non-penetrative acts. “Penetrative acts” include “rape” (forced penetration of vagina, anus or mouth with a penis) and “assault by penetration” (sexual penetration of vagina or anus of a child with a part of the body or an object).

Sexual activities may also include non-contact forms of abuse, for example, involving a child in looking at/production of abusive images, watching sexual activities or encouraging her/him to behave in sexually inappropriate ways.
Neglect

Neglect involves the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health and development.

Neglect may occur during pregnancy as a result of maternal substance misuse. Once the child is born, neglect may involve failure to:

- provide adequate food, clothing or shelter (including exclusion from home or abandonment);
- protect from physical and emotional harm or danger;
- meet or respond to basic emotional needs;
- ensure adequate supervision including the use of adequate caretakers;
- ensure access to appropriate medical care or treatment;
- ensure that the child's educational needs are met;
- ensure that the child's needs for intellectual stimulation are met.

Some people will find this aspect of the session unsettling for personal reasons. It is important to challenge beliefs that an inter-generational cycle of abuse is inevitable, and to be clear that experience of abuse in childhood is not, in itself, a contraindication for being a good parent or being able to provide good care for fostered children.

Presentation

The effects of neglect and abuse

Remind participants of what they learned in Session 4 about attachment and the need for a secure base. Link this to the effects of neglect and abuse (for example, failure to form a secure attachment and the lack of a secure base).

Explain that some things about a foster carer's home or the way the family operates, and which seem fine to the foster carer's family, might feel threatening to a child or young person who has been abused, for example, members of the foster family might be accustomed to walking around the house without wearing many clothes. But to a child who has been sexually abused, this could trigger difficult feelings.

This is why foster families need to do certain things differently and to develop a safer caring plan (which we will look at later in the session).

Show the slides below.

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SLIDE The effects of neglect and abuse

Developmental trauma

This describes the result of neglect. If a baby's needs are not met by their caregiver, this represents a serious threat to the baby. The baby will undergo prolonged stress. This will compromise the baby's brain development and long-term ability to regulate stress, and he or she will not learn to develop feelings of trust and security.

This is known as developmental trauma.
Alternatives to custody

SLIDE The effects of neglect and abuse

Emotional trauma
Some children do learn to regulate stress in babyhood but then at a later stage they are exposed to terrifying events, e.g. being threatened or abused or seeing someone close to them threatened or beaten. The child feels fear, horror and helplessness.

This leads to extreme stress, flooding the body with stress hormones. These affect brain function.

This is known as emotional trauma. It can have a long-term damaging effect on the way the child functions, making many things in life more difficult for him or her.

SLIDE The effects of neglect and abuse

- Children’s brains are affected in far-reaching ways by neglect and abuse – it can affect the way they think, learn, remember, behave and relate to others.
- Attachment difficulties affect the way the child relates to adults.
- Children develop strategies to survive in situations of neglect or abuse.
- They may continue to use these survival strategies even when they are in a safe place and no longer being neglected or abused.
- Sometimes, much later, certain things (e.g. a smell, a place) can trigger the memory of abuse or of an abuser – this can cause a child to feel afraid or to avoid certain people, places and activities (without knowing why).
- These are all reasons why children’s behaviour can sometimes be misleading or puzzling.

SLIDE Children can recover

If a traumatised child experiences the right kind of parenting that provides a “secure base” – for example, in an adoptive family or a long-term foster placement – he or she may be able to recover from trauma, form new attachments and overcome many of the effects of early adverse experiences. But this can be challenging. It can take a long time and may require therapeutic support for the child and family.

Presentation

Supporting children who have connections with people who are a source of risk

Explain that some young people in conflict with the law are themselves vulnerable and at risk of being harmed by others. Explain that some young people may be placed in foster care to keep them away from people who could pose a risk to them, in addition to the fact that they may be on bail or awaiting a court appearance. The risk might be, for example, because these people would draw the young person back into offending behaviour or because they have threatened to harm him or her (or both).
Explain that these risky people might be the same age as the young person or slightly older – for example, if the young person was in a gang – or they may be adults. The young person may have become involved in offending behaviour as a result of being trafficked or sexually exploited, and the abusers may try to find him or her, make contact and/or take them away from the placement.

If the young person is at risk from dangerous people he or she needs to be kept safe.

Show the slides below.

**SLIDE Risky people who may try to contact the child**

- Peers or older people who were involved in offending behaviour with the child/young person
- Other gang members (if the young person was in a gang)
- Abusers (if the young person was being sexually exploited or trafficked)
- Family members who pose a threat (e.g. they have involved the child/young person in criminal behaviour or they have abused him or her, physically, sexually or emotionally)

**SLIDE How might the child or young person feel about contact?**

- The young person may be terrified of being traced and contacted.
- If the other person makes contact, the child/young person may find it hard to resist pressure (e.g. to meet up) or threats.
- Some young people who are being sexually exploited do not recognise this and believe the abuser is their friend or that they are in a relationship.
- The child/young person may want to be in contact with the person/people and may even do this in secret (e.g. via texts and calls on mobile phone, social networking or secret meetings).

**SLIDE If someone tries to contact the child or young person...**

The child may confide in you – or keep it secret.

He or she may keep it secret because they want it to continue or because they are being intimidated and have been told not to say anything.

**SLIDE Look out for warning signs:**

- Child unusually fearful, anxious, excited or agitated
- Unexplained phone calls or text messages to the child
- Child has been given money or other things by people unknown to you
- Cars waiting outside the house
- People waiting near the house
- Child late home with no explanation
- Child does not come home
Alternatives to custody

Information for trainers

What should foster carers do?

If you believe the child or young person is in contact with someone who is a source of risk or danger:

- If, as a foster carer, you are dealing with an immediate risk from such a person, you must ring the police if emergency help is needed, and not wait to get a social worker.
- If it is not an immediate risk but a matter where there is a need and opportunity to consider first whether it is to be brought to the attention of the police, you should first discuss this with the child’s social worker, the supervising social worker for the placement, the youth offending team worker or the specialist social worker involved.
- To reiterate, if you cannot contact the social worker and you think the child is at immediate risk, contact the police.

Precautions for children at risk

If it is known that the child is at risk in this way, the fostering agency and youth offending team may advise on special measures. For example:

- the child may need to change his or her mobile phone number and/or block certain people on social networking sites (this will only work if he/she does not want to be in contact with them);
- you may need to escort the child to and from school;
- you may be able to install a tracking app on the child’s mobile phone with his or her agreement (so that you can know their location);
- the police may be instructed to respond immediately to any calls from or about your address;
- the police may “warn off” or arrest anyone known or seen to be contacting the child or young person;
- in some cases, where the child’s location has become known to a dangerous person, the child or young person may need to be moved to a different placement.

Exercise and discussion

How did you learn family rules when you were a child?

All families have rules about dos and don’ts. This exercise will help participants think about the implicit and explicit expectations that develop within families.

Pair up participants (suggest those who are there with their partners work with other people) and give them a couple of minutes to tell each other how they knew the rules of the home they grew up in.

Take answers and write these on the flip chart. It is likely that participants will come up with a mixture of answers, such as: ‘It became a habit’ or ‘I just knew’ or ‘You were told off if you didn’t do it’.

Lead a discussion about family rules, ensuring that the points in the slide below are covered.
SLIDE  Example of family rules

- We always try to tell the truth and be polite.
- We always ask permission before taking things that belong to other people.
- We knock before entering someone’s bedroom.
- After eating, we take our plates out to the kitchen.
- We speak kindly to everyone and always treat animals gently.
- We change out of our uniforms and put play clothes on when we come home from school.
- We wash every day and clean our teeth after breakfast and after dinner.
- We flush the toilet after we use it.

Information for trainers

Most households will have family rules, but often these are implicit rather than written down. You may also want to explain the difference between implicit expectations (understood, but rarely discussed, such as greeting someone when they come in the room) and explicit rules that are laid out (such as the use of the internet and that mobile phones must be turned off after an agreed time at night).

The effective management of foster children’s behaviour requires a clear framework that is known to the children themselves. Family rules play an important part within this framework. Rules that are phrased positively, such as ‘In this house we try to be kind and caring people’, can be particularly helpful.

Family rules apply to all members of the household, and they change as the membership, ages, stages and concerns of households also change. They can be helpful in keeping all members of the household safe and can be fitted into a foster carer’s safer caring plan (which will be explored in the next activity). For example, a rule for new children joining unfamiliar families and households might be, ‘We knock on the other person’s door before entering a bedroom’.

Presentation

An introduction to safer caring plans for foster carers

Give an introduction to family safer caring plans, covering the points below.

Safer caring plan

Every foster family should have a safer caring plan to protect children and family members from harm, misunderstandings or allegations. These guidelines will help you to formulate a plan that is suitable for your family. Such plans may, depending on the individual European country, form part of the foster carers’ assessment. If so, it should be kept by foster carers and a copy should be held on the agency foster carer file, to be reconsidered when foster carers are reviewed.

Distribute an example of a safer caring plan form. See Handouts for an example.
Alternatives to custody

The following may be used as a guide and adapted for your particular circumstances:

PART 1 – Family routine

This element of the plan covers issues such as the following:

- Getting up in the morning
- Using the bathroom
- Use/storage of medication
- Smoking and alcohol
- Visits of friends and relatives
- Use of internet and phones
- Travelling in cars
- Going to/returning from school
- Bedtime routines
- Physical contact between foster carer couples

Some of the above routines will be different at weekends – key variations should be noted in the plan. Ask participants to note down the main parts of their routines, focusing on how they ensure that they operate in ways that are safe for children.

PART 2 – Family rules

This element of the plan sets out the ways in which adults and children (both fostered children and foster carers’ own children) behave towards each other. It covers aspects such as:

1. Who may enter parental/children’s bedrooms, whether occupied or not?
2. Male and female foster carers – are there differences in the ways in which they provide care?
3. What physical contact (between adults and children and between children themselves) is viewed as being appropriate?
4. What are the ways in which conflicts and disagreements are resolved?

Ask participants to identify the sorts of family rules that they currently operate, or might in future develop, to enable them safely to provide care for foster children. Remind them that there are various ways in which families operate, and that there is more than one right way to do many things.

PART 3 – Formulating a safer caring plan for your family

Having thought about the issues in Parts 1 and 2, participants will now be clearer about how their family operates. This should help them to identify the best strategies to make their homes a safe place for foster children and other family members. This may mean that participants will need to change some family practices that may previously have been normal and acceptable but which will not be helpful when caring for foster children.

This takes account of the possible impact of a child’s adverse past experiences and the impact your family routines and behaviour may have on him/her. Participants may need to work out
how to do things in a way that is not open to misinterpretation or likely to make the child feel threatened.

Each foster family’s plans for safer caring need to be shared and agreed with their fostering agency, recorded in the safer caring plan and reconsidered and reviewed at regular intervals as part of your foster carer household review.

This safer caring plan should be reconsidered and, if necessary, adjusted when a new child enters the foster home.

**Information for trainers**

A family safer caring plan includes strategies that are designed to help fostered children to keep safe and to feel safe in the foster placement.

- It should also cover use of the internet, social networking sites, etc.
- It should take account of the histories and circumstances of each child, which may require periodic adjustment, especially each time a new child is placed.
- Describe to participants your fostering agency’s approach to safer caring plans and the expectations regarding when, and how they should be completed.

**Exercise**

**Think about a safer caring plan for your own family**

Ask participants to spend a few minutes thinking about what might be in their own family’s safer caring plan. Ask them to consider what they have just heard in your presentation, and to jot down some notes about the kind of changes they might need to make to their family’s routines or rules that they would include in their safer caring plan.

Explain that the actual safer caring plan would not be drawn up until they know more about the child or young person they are going to foster, but that it is useful to start thinking about it now.

Participants should work individually, although couples may work together.

After a few minutes, invite members of the group to share an example from their own safer caring plan. You could start by taking one example from each volunteer, and then continue going around the group until everyone has shared what they want to, or until you feel the time is right to end the exercise.

**Presentation**

**The Seven Safer Caring Principles**

Conclude this look at safer caring by showing the following slides that set out the Seven Safer Caring Principles, developed by The Fostering Network in the UK (The Skills to Foster: Leader’s guide, 2014, pp 186–187). This is also available as a handout for distribution (see Handouts).
Alternatives to custody

SLIDE Safer caring principles 1–3

1 Children and young people need individualised care from their foster carers. Decisions about the whole range of ordinary family ways of caring require a proportionate and reviewable (but clearly recorded) approach.

2 Foster carers’ own children should be listened to very carefully, involved in safer caring discussions, and consulted about changes that may have to be made about how everyday things are done in the home.

3 Everyone has a right to some privacy and a right not to be worried or embarrassed by other people in the house.

SLIDE Safer caring principles 4–7

4 Everyone has a right to say “no thanks” to physical contact like hugs or cuddles.

5 Everyone has a right not to be hit, hurt or bullied.

6 Fostered children should feel safe in relation to their physical care. If they are unable to communicate for any reason, they should be given the consideration and respect that other children of the same age and gender would expect.

7 Fostering tasks are “gender neutral” in nature, although children, their parents or the foster carer may have preferences about who performs what tasks.

Exercise

The children of foster carers – what might they feel?

Ask participants, in small groups, to discuss the questions below. If there are any participants who do not have children of their own, ensure that they are in a group with people who do have children of their own. Show the slide below.

SLIDE Foster carers’ children

If I begin fostering children in conflict with the law, how might my children feel about:

- Sharing me and my time with another child or young person?
- Sharing our home with another child or young person?
- Having new (safer caring) rules for our family?

Allow plenty of time as it is likely that participants will have a lot to consider and to talk about in relation to their own families. Ensure that every person in the group gets a chance to speak.

Take feedback.
Information for trainers

Make the following points if they have not been made already.

If the carer’s own children can be involved and informed about the family’s decision to become foster carers, and about specific children before they join the family, this will help reduce conflicts and help make them feel involved.

To ensure that their own children don’t feel excluded, foster carers need to build in some regular “protected time” for them.

There are bound to be both positive and negative aspects to the impact of fostering on the carers’ own children. For example, children often become friends with the children and young people in the placement and may feel sad when they move on.

If they can be involved in open discussions about difficulties with their parents and/or with social workers, this is likely to be helpful.

Now show the following slide and ask them to think about and discuss the question.

SLIDE

What benefits might there be for my own son(s) and daughter(s) if I begin fostering children in conflict with the law?

Take feedback. The points made by the group may include the following.

Children of foster carers may benefit by:

- getting to know young people from different backgrounds and ethnicities;
- (sometimes) making friends with the child or young person;
- broadening their horizons, e.g. realising that “young offenders” are not so different from them;
- feeling pride in having a parent who is a positive role model, doing a worthwhile job for society;
- learning from seeing their parent managing challenging situations well;
- indirectly, by their parent bringing in a wage that supports the family;
- it may help them develop an interest in a future career, e.g. with the youth justice service, the police, social work or even foster care.

QUICK-THINK

What do foster children want to/need to know?

Explain to participants that just as it is important for foster carers to have information about the children who may be placed with them, it is also vital for children to have information about their foster carers. When consulted, children have said that they would like to know more about their foster carers before they arrive.

Ask participants to place themselves in the child’s position. What could be important for that child to know about their prospective foster family and home?
Alternatives to custody

Encourage everyone to say their answers, and write these up on the flip chart.

Make the following points.

- Remind participants that the household that children will have come from might be very different to that of the foster carers.
- Children will bring with them their own views, beliefs, value systems and life experiences, which may be very different to that of their foster carers.
- Children may have been used to very different routines and expectations, or even none at all.
- Providing information about the foster family and household will help to prevent sweeping judgements being made about one another and decrease the likelihood of anxiety and prejudice.

This week’s homework will help participants to explore this in greater detail.

Homework

This session’s homework requires participants to involve other members of their family or household. Set the following two tasks for participants:

1. Write a paragraph, in collaboration with as many members of your household as possible, describing your home, family and other things that would be important for a child to know if they were coming to live with you.

   For example:
   - What type of home do you live in? Is there a garden?
   - Who lives in the household? If there are children, how old are they?
   - Are there any pets?
   - What do you like to do in your spare time, for example, hobbies, and what are your routines?
   - How does the family enjoy themselves and have fun?
   - What are the places of interest nearby for children?

   Suggest to the participants that this could form the basis for an introductory Family Book or Foster Carer Profile that could be shown to prospective foster children before they come to live with them.

2. Talk to other members of your household about what your current family rules are. Spend some more time developing your thoughts about what you might include in a family safer caring plan.

Closing the session

Answer any questions, and respond to comments or suggestions.

Thank group members for attending the session, and say that you are looking forward to the final session, and remind them of the date.
SESSION 6:  
Children moving on, placements ending, and what happens next

What you will need for this session

All handouts are available for downloading and printing on www.baaf.org.uk/young-fostercarers-law. Password: baafEUfostering.

- A laptop computer and screen for showing the Powerpoint presentation
- A Powerpoint slide presentation, which you will need to have prepared in advance
- A flip chart and pens
- The handout Ross: moving on
- Some information (either as a handout or slides or a reference to online resources) about the fostering agency's assessment process for prospective carers and ongoing training and support after approval
- An evaluation form for each participant (see Handouts for an example)

Setting the scene

Welcome participants to this final session and congratulate them on coming to the end of the course.

Learning outcomes

Show the following slide.

SLIDE Learning outcomes for Session 6

This session will help you:

- To consider the impact of transitions and endings on children in conflict with the law and on foster carers
- To explore how foster carers and their families can help children and young people to cope with transitions and endings
- To look back at the course, think about what you have learnt and look forward to where you go from here

Information for trainers

This session is about placement endings, but it also reflects the end of the preparation training course. The aim is to help prospective foster carers think about how foster placements come to an end and how this can be done in ways that are helpful and supportive for children and also a positive experience for foster carers.

For both children and carers, it is essential to manage moves of children well and prevent them from turning into unhelpful endings. Everyone experiences certain changes as being stressful, but for fostered children in particular, the ending of a placement, even if well planned, may arouse feelings of loss, rejection and vulnerability.

Whether returning to the family, moving to another foster placement, being remanded in custody or moving to a secure centre, every child needs someone close at hand who is committed to them, listens carefully, responds sensitively, and acts with their best interests in mind.
Feedback from homework

Take brief feedback from participants about their homework tasks. Invite a few participants to read out the paragraph they produced to introduce their home and family to a foster child. Invite two or three to tell you about aspects of their safer caring plan. Thank them for sharing these.

QUICK-THINK

Foster placements for children in conflict with the law, and how they end

Ask the participants to suggest reasons why a child or young person may need to move to a new placement.

Write these up on the flip chart, headed Why children may have to move. Add any reasons they have missed, using the Information for trainers below.

Then ask the group: how might a young person be affected by having to move – both positive and negative.

Write the suggestions on the flip chart, headed Consequences of placement moves. If the group’s suggestions do not cover the points below, add them.

Do not spend too much time discussing these points. The next exercise will use a case study to give the group an opportunity to look in more detail at some of the main points.

Information for trainers

Why children and young people may have to move

- They may move from their family into a foster placement, or from a placement back to their family or to go and live with another family member or friends.
- They may move to a specialist or intensive fostering placement or to another remand foster placement because their foster carers may be unable to continue to care for them or because of children’s challenging behaviour.
- They may be moved from a placement following a decision of the authority responsible for their care, for example, while an investigation into an allegation is carried out.
- They may receive a custodial sentence and move from a placement to a secure centre.
- They may be judged sufficiently mature to live semi-independently with regular support or in supported accommodation or a hostel.

Consequences of placement moves

Children and young people may experience all sorts of emotions and their lives may be affected in different ways as a result of moving into or from a placement. There can be both losses and gains. For example:

- Leaving home/placement, the community and familiar surroundings.
- Losing contact with friends and family (though some of these friends may also have been involved in offending behaviour), a previous foster family, and any other important relationships.
- Finding it harder (or easier) to maintain their cultural and individual identity.
• Having to change school.
• Losing continuity of health care due to changing GP and dentist.
• Finding it harder to trust new people.
• Feeling anger, sadness, anxiety and fear of the unknown.
• Having to tell another family or a new group of people about their life and personal issues.
• Feeling a misplaced sense of responsibility or guilt that the previous placement ended.

But,

• They may feel relief and excitement at new opportunities and the knowledge that they are going to be cared for in a safe and secure environment.

**Exercise**

**Ross: the impact of moving on**

Ask participants to work in small groups to consider the case of Ross, an example of a young person who has lived in a remand foster placement for four weeks while awaiting a hearing at a youth court. (This is based on the case study introduced in Session 2.) This exercise asks the group to reflect on the possible impact on Ross of the transition he has to make to a secure centre, using the handout shown below.

Ask each group to choose one person to read out the case study, one person to take notes, and one to feed back their thoughts and reflections to the rest of the group.

**HANDOUT: Ross: moving on**

Ross, aged 15, was arrested by the police for having committed a serious offence of theft while on bail for drunk and disorderly offences. He was interviewed by the police and, on the advice of his lawyer, he made no comment to any of the questions the police asked. He was given bail by the police so that they could investigate the offence further, with the condition that he lived with remand foster carers, he did not contact any witnesses, he did not enter a certain area of the town that he lives in, and he did not leave the house between 7pm and 7am. He was bailed to return four weeks later when the matter would either be dropped or he would be charged.

Ross’ birth mother was not happy that he was going to be living with a foster family because she wanted him to be bailed on the condition that he lived at home with her. Despite this, Ross settled well into his remand foster family and he co-operated well with his curfew conditions and Youth Offending Worker. The contact arrangements with his mother were problematic to start with but Ross's carers gained her trust and after the second week of placement, there were no difficulties reported.

When Ross returned to the police station, the police decided to charge him as they had examined CCTV footage which showed him committing the serious theft. Ross was charged and detained overnight to be taken to court the next day. He was sentenced to a secure centre for three months.

With this transition in mind, consider the following questions:
Alternatives to custody

1. What emotions is Ross likely to feel?
2. What might be the concerns for Ross's foster carers, and what emotions are they likely to feel?

Information for trainers

Ross may have imagined and desperately hoped that he would not have been found guilty so, to start with, he is likely to experience feelings of shock, numbness and denial.

Transitions can produce reactions for everyone involved. Ross may experience feelings of loss and sadness on leaving the placement (which can happen even when a transition is anticipated or planned). It means facing uncertainty, which can feel threatening. And it also means separating again from people and places that have become familiar – a situation that Ross will probably have faced at least once before.

The fact that Ross was charged and detained overnight may have come as a surprise to the foster carers or they may have been expecting it. They may have taken him to the police station and therefore they may have had to help him deal with the impact of being told that he would be charged. The carers may feel upset about Ross moving on, and worried about how he will cope with the situation he is moving to, i.e. secure custody. They would have had to pack up all his personal things and get them to him. They may or may not be able to see him whilst he is being detained, but they would be able to visit him once he is in secure custody, if it is appropriate and they have the time and space in their lives to do this. If not, they would be able to write to him and offer emotional support whilst he is there. They may feel some sadness as to how things have turned out at this time in Ross' life.

QUICK-THINK

How to keep memories safe

Explain that when a child or young person leaves a placement there is a real possibility that they leave behind that part of their lives. Children and young people who have moved a lot often have nothing to remind them of the positive experiences they had in the past. But foster carers can help children and young people remember the positive things that happened while they were in the foster placement.

Ask the participants to suggest in a large group how foster carers can help to give a message to young people they look after that all parts of their lives are valuable.

Write the suggestions on the flip chart, titled How to keep children and young people's memories safe (and if necessary add more ideas from the list below).

Information for trainers

How to keep children's and young people's memories safe

- Give the child/young person photographs or films of the time spent with the foster family.
- Agree to remain in touch (if the child's social worker agrees that it is in the child's best
interests) by phone, email, Skype or social networking.

○ Arrange for him or her to visit or to meet up somewhere in the future.
○ Ensure that the child or young person takes with them all of their presents, clothes, books and memorabilia.
○ Ensure that the child or young person keeps programmes, tickets and guides from places they have visited and any significant events while they were living with you.
○ Ensure that the child/young person has copies of certificates, school reports, trophies and badges that they brought with them or which they received while they were in the foster placement.

Exercise

Talking about children and young people moving on

Ask participants to divide into small groups and discuss how foster carers could make the ending of the remand placement and the new beginning as positive as possible for:

○ the child/young person
○ for themselves (as foster carers) and their families

Examples of new beginnings:

○ Child goes into secure custody.
○ Child moves to semi-independence, (hostel or supported accommodation).
○ Child moves to another foster placement because foster carers are no longer able to look after them.
○ Child returns to their family.

Information for trainers

Here are some points that you could suggest, if participants have not already covered these:

○ When children leave a foster placement to go into secure custody, move to another foster placement, return to their birth family, or to become semi-independent, they become vulnerable to the same range of emotions that they may have experienced when they first entered a remand foster placement.
○ Be emotionally supportive to the young person and acknowledge their difficult feelings.
○ If appropriate, offer to maintain contact with a child after they have moved on, through visits, telephone calls, email and social networking.
○ Tell the young person that you care about them and value them for who they are.
○ Explain and help them to understand why they are moving and prepare them for this.
○ Planned moves are likely to be easier for foster carers to manage – there is time to prepare the child and to acknowledge their own feelings. Unplanned moves can occur for many reasons, they can be difficult for all concerned, and therefore extra support to the young person and the foster family may be required.
○ Acknowledge your own feelings about the child moving on and recognise that your children may feel sad and upset too.
○ Understand and accept why the child needs to move and value the time spent with the child.
○ If appropriate, keep in touch.
Alternatives to custody

Course recap
Briefly return to the aims of the course and refer to the topics covered in each session (you could show the relevant slides from Session 1 again if you like). Briefly refer to any particularly significant discussions or issues that arose during the different sessions.

Ask participants to consider how they think their ideas, understanding and skills about fostering children in conflict with the law have developed since the start of the course.

Say that you will be giving out evaluation forms and suggest that participants make notes on their evaluation forms about this, if they would like to.

Give positive feedback to the participants about, for example, the useful and interesting discussions you have had as a group, how far the participants have come, any fun moments you all had together, and other comments relevant to your group.

Presentation
What will happen next?
Have some information ready about the fostering agency’s assessment process for prospective carers, ongoing training and development, and support after approval. If possible, this should be in the form of a handout that you can give to participants. Alternatively, you could write it up on the flip chart or direct participants to any online resources or information. You will have covered these topics in previous sessions but this is an opportunity to recap.

Remind the group about any support that is available in your fostering agency for foster carers looking after children in conflict with the law and about any training and development activities.

Remind participants about the preparation and support (if any) that is available in your fostering agency for children of foster carers and encourage them to talk to their sons and daughters about this.

Check that participants are clear about what will happen next and answer any questions.

Staying in touch
Ask the group if they would like to keep in touch with each other. Explain that this is not compulsory and that no-one needs to share their contact details, if they do not want to. If they would like to do this, you could pass around a piece of paper for participants to add their contact details and circulate it later on.

Your fostering agency may have other ways of foster carers staying in touch via social media – if it does, give information about this.
**Course evaluation**

Give everyone your fostering agency’s preparation course evaluation form and a pen, and ask them to fill this in (a sample evaluation form is available in Handouts). Once they have done this, collect the forms. Wait until after the participants have left before you start to read them.

**Information for trainers**

It is a good idea to ask, on the evaluation form, if there is anything participants are still worried or concerned about in relation to fostering children in conflict with the law. Common themes may emerge, which your fostering agency could respond to after the preparation course has ended or address in the next preparation course.

**Closing exercise**

Ask everyone to complete two statements that you have written on the flip chart:

1. *Something I have learned on the course that surprised me…*
2. *Something I am looking forward to…*

Ask everyone in turn to share this with the group.

Reassure the participants that, as they progress in their role as foster carers for children in conflict with the law, they will gain more experience, knowledge and skills to help them deal with the children and young people placed with them. They will also become aware of their (and their family’s) strengths in dealing with different situations and children’s needs, and they will develop strategies to deal with them.

Thank participants for all their hard work throughout the course, and wish them well with what lies ahead.
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NOTES ABOUT THE AUTHORS

Francescadiletta Bortone was awarded a degree in Law in 2008 by the University of Salento; and a PhD in Philosophy of Law and Penal Law on risk and safety policies in 2012. In 2013 she received the title of Lawyer. She worked as an educator and tutor for prisoners from 2008 to 2013, and as a tutor and researcher with the chairs of Philosophy of Law at the University of Salento until 2014. Currently she collaborates with several chairs (Legal and Social Philosophy, Theory of Law, Sociology of Law, Logic and the Theory of Legal Argumentation) at the University of Salento. She participated in all work streams for the “Alternatives to Custody” project as a project assistant and researcher.

Chris Christophides gained a Master’s degree in Social Work and qualified as a social worker in 1989, after working as an Education Welfare Officer and a Greek-Cypriot Community Worker. After developing local authority experience for 10 years in child protection, the youth justice system and with looked after children, Chris specialised in adoption, fostering and post-adoption for another 11 years prior to joining BAAF in 2003 as a trainer and consultant, and has provided social work consultancy and training on a wide range of topics in England, Europe and Japan. He also chairs adoption and fostering panels, and facilitates learning groups for family placement managers and child health professionals.

Bruce Clark, the “external expert” to the project, works as a children’s social care consultant. He is a qualified social worker, with more than 35 years’ practice and management experience in local authorities, the NPSCC, as a senior civil servant and with CAFCASS – the Children and Family Court Advisory and Support Service. While working as a civil servant, he was responsible for advising Ministers about family justice, child protection and looked after children policy, including, in particular, the development of intensive fostering during the 2000s.

Jeffrey Coleman co-developed BAAF’s proposals for the Alternatives to Custody project with independent consultant Alessandro Negro, and has been the director of the project since it started in January 2013. Jeffrey has worked for BAAF since 1999, first as director of the Southern England regional team, and then as a director of special projects. After a history degree and MSc in applied social studies, he qualified as a social worker in 1977 and acquired extensive experience as a practitioner and frontline manager in child and adult mental health social work, child protection, fostering and adoption, and youth justice in London. He has built new collaborations for BAAF with private sector and international partners, and is especially interested in work with a strong children’s rights agenda.

Fulvia D’Elia has a PhD in sociology of law, has been an Honorary Judge at the Juvenile Court of Bari, Italy, from 1996 and at the Court of Appeal of Bari from 2011. She is also a lecturer in sociology of the family and assistant professor in sociology of law at the University of Bari, a mediator and collaborative professional, a member of the editorial board of the journal Minorigliustizia, and the author of many publications on socio-juridical issues, focusing particularly on family and children’s issues. She is also a participant in the Alternatives to Custody project, as an expert. In particular, she looked at the focus groups and took part in the drafting of the final report.

Nelly Petrova Dimitrova is a professor of social pedagogy, with a PhD in pedagogy from Sofia University, “St Kliment Ohridski”, in Bulgaria. Her research interests are the theory, methodology and methods of social pedagogy and social work, supervision in social work, and the training of workers. She has authored over 80 publications. She is a creator and chair of the Social Activities and Practices Institute, and a member of several national and
European networks, including APFEL – Acting for the Promotion of Fostercare at European level (as a board member), the International Juvenile Justice Observatory and Eurochild’s Thematic Working Group “Children in alternative care”. She is also an expert consultant in the fields of justice for children; deinstitutionalisation of care for children and families; development of community-based social services for children and families at risk, including foster care; and the development of methodologies, methodological materials and guides for social workers. She has also been a consultant, expert at the World Bank, Council of Europe, UNICEF Geneva Regional Office, UNICEF Bulgaria, Ministry of Justice, Ministry of Labour and Social Policy and the SAPI’s projects and programmes.

Eileen Fursland is a freelance writer specialising in issues affecting children and young people. She has written extensively for BAAF, as well as for a range of other organisations, newspapers and magazines, including Children & Young People Now. Eileen’s publications for BAAF include her books Facing up to Facebook (2nd edition 2013); Social Networking and Contact (2010); Foster Care and Social Networking (2011); and a booklet for young people, Social Networking and You (3rd edition 2015). She has also co-authored a number of publications, including Managing Difficult Behaviour: A handbook for foster carers of the under 12s, with Clare Pallett, Kathy Blackeby, William Yule, Roger Weissman and Stephen Scott (2nd edition 2015) and Preparing to Adopt: A training pack for preparation groups in England (2014), with Elaine Dibben and Nicky Probert.

Jana Hainsworth is Secretary General of Eurochild and oversees the development of the network, which now has 175 members covering 32 European countries. In 2008 Eurochild established the thematic working group on children in alternative care. Over 40 members are active in this group, which facilitates exchange of policy and practice on children in care or at risk of entering the care system. Eurochild has supported several activities and events that promote quality foster care as an alternative to institutional care for children who are separated from their biological families.

Dr (habil) Maria Herczog, PhD, is a visiting lecturer at ELTE Budapest University Doctoral School (Hungary) and on the ELTE Law Faculty postgraduate course on family law; the chair, programme and leading researcher of the Family Child Youth Association; and has been the editor in chief for over 20 years of the only professional journal on child welfare and protection in Hungary. She has undertaken research on child welfare, child protection, child rights, and family matters, including foster care, for more than 30 years, and is the author of several books, chapters and articles. She has taught child welfare and protection at several universities since 1989. She is a frequent speaker at national and international conferences and in the media. Maria was elected as a board member of the International Federation of Social Workers (IFSW) and served for six years from 1994–2000, was a member of the UNCRC Committee in 2007 and re-elected in 2010, and was a rapporteur of the Committee in 2013. She was elected as a member of the Management Board of Eurochild in 2009, and as president in 2010, re-elected in 2013.

Before she joined BAAF, Jacqui Lawrence gained considerable experience of residential work with older people as well as those with learning and physical disabilities. She has worked as a fostering manager for two independent fostering agencies where she specialised in supporting foster carers in a treatment foster care setting. Jacqui joined BAAF in 2009 as a fostering development consultant and trainer consultant, and specialises in supporting foster carers, creating policies and procedures, and preparing agencies for fostering and children’s
homes inspections. She is the chair of a local authority fostering panel, an IRM (Independent Review Mechanism) panel member and a panel member of an independent fostering provider. Jacqui has been a lead facilitator for the Keeping Kinship Carers and Foster Carers Supported (KEEP) project.

Claudius Messner is an associate professor of philosophy of law at the University of Salento (Lecce, Italy). The author of a great number of publications on philosophical issues and problems pertaining to law and jurisprudence, his research also includes work on migration and citizenship, juvenile crime policy, alternatives to punishment and mediation, as well as theoretical reflections on systems theory, and on phenomenology. Latterly, his research interests have also focused on the imaginary of law and order in art and literature. He is the editor of the ‘Special Issue Luhmann’, International Journal for the Semiotics of the Law, 27:2, 2014.

Alessandro Negro is a freelance European projects consultant based in Brussels for more than eight years. After completing his law studies in Italy and Germany, he moved to the European capital where he specialised in advising on EU funds at all levels. He currently provides tailored consultancy services on European Union (EU) project development, management, evaluation and quality assurance for national and international NGOs working in the justice and social affairs fields. His professional and research interests include the inter-relationship between residential care and home care, children’s rights and well-being, and juvenile justice, with a special focus on the sociological background to the policy dilemmas confronting EU states. He is currently pursuing a postgraduate programme in Sociology at the LSE (London School of Economics) on social research methods, social policy and interdisciplinary approaches to organisation theory.

John Page is a qualified social worker and has worked in a number of different management positions during his career in children’s social care in the UK over the last 40 years, including residential care, fostering and adoption, youth offending and Child and Adolescent Mental Health Services (CAMHS). His most recent positions were as Director of Family Services in the Royal Borough of Kensington and Chelsea and Project Director in Tri-borough services, until his retirement at the end of 2014. He now works part-time as a social care consultant.

Following many years as a youth worker in inner city London and generic social work practice experience, Roana Roach has specialised in adoption and fostering, working initially as a Deputy Project Manager for the UK children’s charity Barnardo’s before joining BAAF in 2004. She has chaired adoption and fostering panels as well as adoption disruption and other complex meetings. As a trainer consultant, Roana’s special areas of interest include black and minority ethnic issues, and equality and systemic approaches to practice issues. Roana currently facilitates BAAF’s Black Workers’ Practice Group as well as black adoption support groups for a number of London adoption consortia.

Dr Jo Staines is a Senior Lecturer and Director of the BSc Childhood Studies programmes at the School for Policy Studies, University of Bristol. Her research interests include youth justice, including alternatives to custody and restorative justice interventions; the interface between the criminal justice and care systems; adolescent foster care; and the criminalisation of children and childhood. Jo has published widely in journals such as the British Journal of Social Work, Child and Family Social Work, and Youth Justice. She is author of Focus on Social
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*Work Law: Youth justice* (Palgrave Macmillan, 2015) and, writing as Jo Lipscombe, authored *Care or Control? Foster care for young people on remand* (BAAF, 2006), and *Fostering Adolescents* (with Elaine Farmer and Sue Moyers, Jessica Kingsley, 2004).

**Nadya Stoykova** has been an executive director of SAPI since 2003, and has a PhD in the field of social work with children in conflict with the law. From 2006, she has been a lecturer at Sofia University. She has authored a number of publications and research studies in the field of social work with children in conflict with the law, the criminal justice system in Bulgaria and the foster care system. She is one of the authors of the methodology for the terms and conditions of provision of social services “foster care”, published by the State Agency for Child Protection in Bulgaria and the Agency for Social Assistance. From 2010, she has also been a lecturer at the National Institute of Justice on child-friendly justice and listening to children who have been victims of crime.

**Adélaïde Vanhove** has Bachelor’s and Master’s degrees in Anthropology and Latin American Studies from the University Paris III Sorbonne, and then specialised in development studies and international co-operation at the University Paris I – Panthéon Sorbonne. From 2000–2004, she worked at the European Forum for Urban Safety in Paris as project manager, particularly in co-ordinating projects dedicated to the social reintegration of young people in conflict with the law. In 2005, she joined the International Centre for the Prevention of Crime (ICPC) in Montreal as an analyst responsible for Latin-American projects and policies. In 2007, she worked as a consultant for the development of European projects for the ICPC in Portugal. Since 2013, she has worked for the International Juvenile Justice Observatory as a policy officer in European affairs, and is in charge of the follow-up of the political agenda of international and European institutions operating in the area, research development, management of European projects and financing, and the co-ordination of the European Council for Juvenile Justice.

**Andrea Witt** is currently Organisation Development Officer at Eurochild, a network of 175 organisations and individuals from 32 countries working in and across Europe to promote the rights and well-being of children and young people. Eurochild’s vision is of a society where children and young people grow up happy, healthy, confident and respected as individuals in their own right. Its work is underpinned by the principles enshrined in the United Nations Convention on the Rights of the Child. Andrea is the co-ordinator of Eurochild’s Thematic Working Group on Children in Alternative Care. She has studied in Budapest and holds a Master’s degree in law. She wrote her thesis on the Hungarian juvenile justice system.
I think if I’d stayed in a foster home, I’d be a better person for it. Cause in a residential home, you get mixed in with the wrong crowds. But in a foster home, you keep safe, I think.

This book is one of the main outcomes of a two-year pan-European project, funded by the European Commission’s Daphne III programme, on developing intensive and remand fostering programmes for young people in conflict with the law, who might otherwise be in custody.

In Europe, young people under 18 who have committed an offence can be convicted and sentenced to youth imprisonment, which they may serve in adult prisons, separate juvenile institutions, or in welfare institutions. The majority of European countries provide informal ways of dealing with youth offending through diversionary measures, and by giving priority to alternative sanctions over deprivation of liberty. But the practice is variable, and in many countries custodial sentences are far too common.

What role can foster care play in response to juvenile offending? At present, it has a limited role and in the majority of countries, there are no legal provisions for foster care as a response to offending, or the provisions exist but are not applied in practice. However, fostering can play a critically important role in delivering child-friendly justice, offering a direct alternative to custody by providing safe care, nurturing relationships, boundaries and structured caregiving.

This book explores these issues in depth. The first part sets out a context and examines the limited role that foster care currently plays in youth justice, and the potential for its greatly expanded use. An overview sets out the key international and European juvenile justice and children’s rights standards, the EU policy context, and the components found in effective youth justice systems, including prevention, diversion and community-level services.

The second part, titled Interventions, contains policy overviews from Italy, Bulgaria, England and Hungary, containing each country’s achievements, needs and shortcomings in youth justice, and an assessment of the prospects for implementing an extended role for foster care in youth justice in the future. Chapters on setting up and operating a fostering service for children in conflict with the law and setting out a quality standards framework offer practical tools. A training programme to prepare and train prospective foster carers for the task of fostering children in conflict with the law comprises the third section. Presented in a clear and practical way, it offers a preparation course that is informative and equips prospective foster carers with knowledge and skills.

This book makes a powerful case for the role that intensive and remand fostering can play to bring about significant positive effects for young people in conflict with the law, and is essential reading for policy makers and practitioners involved in fostering and youth justice services.