

THOUGHT PIECE

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CARE LEAVERS AND THE NEW OFFENDER MANAGEMENT SYSTEM

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Putting to one side the ethics and wider potential risks of reconfiguring the mixed economy of welfare and punishment in favour of the market, this piece seeks to highlight some of the challenges that young people will continue to experience as they transition to independent living from the Looked After system. For some these obstacles will increase the likelihood of their entry into the adult criminal justice system.

The first New Labour government's Children (Leaving Care) Act 2000 represented a serious attempt to respond to the well documented gaps in income maintenance and service provision (Goddard, 2001) delivered to care leavers. Hitherto, the supportive measures that had, for example, been contained in Section 24 of the Children Act 1989 were bestowed on local authorities only as 'powers' rather than 'duties'. The new statute, however, placed responsibility on the local authority to put in place a Pathway Plan and appoint a Personal Advisor to help the young person navigate their transition from public care to independent living. This included advice, guidance and support in such areas as accommodation, health, education, training and employment; but also involved attention to such issues as emotional stability and self-esteem. This service is in place until at least the age of 21 years and, in some cases, longer (24/5 years). Although young people

obviously attain adult status at the age of 18 years, the welfare principle enshrined in the Children (Leaving Care) Act 2000 is intended to enjoy a brief but vital after-life in the less protected environment of adult services. The guardian of that principle is the Personal Advisor who, in consultation with the young person, drafts a 'pathway plan' from the age of sixteen to twenty-one years (and in many cases beyond). Since its passage through parliament, this statute has undoubtedly made a tangible difference to the quality of life and opportunities experienced by many young people leaving the care system; although it has to be acknowledged that, in terms of practical service delivery, its application has been uneven across the local authorities of the United Kingdom (APPG for Looked After Children and Care Leavers, 2013; House of Commons, 2009). Moreover, the extent to which the welfare principle has survived entry into the contemporary adult offender management system is debatable. It was not enhanced by the detachment of probation training from social work education in the mid-1990s. As a result there is perhaps inevitably an increasingly attenuated bond between these closely-related, but sadly estranged professions. Shared values and a common curriculum – including a working knowledge of welfare systems, and child and adolescent development – once informed a distinctive probation identity with social work roots. One suspects that three-way meetings with Personal Advisors about Pathway Plans are not a common or integral feature of contemporary probation practice.

In fairness, *Transforming Rehabilitation* (Ministry of Justice, 2013) acknowledges implicitly that adult offenders with a background in public care are over-represented in the criminal justice system. In a curiously positivist passage it identifies one of the 'root causes of offending' as 'childhoods spent in care' (Ministry of Justice, 2013: 27). There is also an ambiguous and oblique reference to offenders with 'complex needs and protected characteristics' (Ministry of Justice, 2013: 17). Could this include care leavers? It is unclear because the hard, complex and granular realities of these young people's lives are only alluded to fleetingly before they recede into the peripheral vision; along with those other spectral figures on the margins, the victims of 'broken homes, drug and alcohol misuse, generational worklessness...mental illness and educational failure' (Ministry of Justice, 2013: 27). The focus of the *Transforming Rehabilitation* vision, of course, is not on the care leaver or the socially excluded. Rather, it is instead fixed unblinkingly on the market. Hence the failure to even recognise that local authority Children's Services, Leaving Care support systems and Independent Living Teams may be worth engaging with as partners in the delivery of services to these young adults. There appears to be no understanding that such a partnership could reduce the dynamic risk factors which arise from care leavers' daily struggle to negotiate the hostile terrain awaiting them on leaving the Looked After Children's system. This transition to independence has always been characterised by risk, but in a context within which local authorities are struggling to meet their statutory responsibilities to their most vulnerable citizens, the fragile packages of care and support being handed to these young people are prone to unravel. Unlike most other young people, the safety nets of family and friends with social capital are generally not available to them when things go wrong.

It should be remembered that many of these young people are at risk of making poor decisions; not only because they are deprived of the traditional supports of family, but also because their cognitive and emotional development has often been impaired by

trauma, abuse and neglect. Many such young people find their way into the criminal justice system, of course. Some enter it as children. One survey of children in custody found that 27% had experience of the Looked After system and 39% had been on the Child Protection Register (Jacobson *et al*, 2010). Other young people with experience of the care system enter the criminal justice system for the first time as adults; at a time when the support offered by children's services tapers away.

The role of mentors is certainly not without merit, especially in relation to care leavers and others at risk of social exclusion. Indeed, there may even be echoes of the Social Exclusion Unit's (Office of the Deputy Prime Minister, 2005) promotion of the role of 'trusted adults'. These adults are not only considered trustworthy because they are reliable, knowledgeable and committed. Important as these attributes are to a young person who has perhaps experienced little in the way of consistent relationships with adults (including in many cases a care system that has replicated chaotic parenting), it is also essential that such practitioners are committed to the welfare of the young person. An essential requirement in the job description involves being a good advocate: ensuring care leavers' rights and entitlements are realised. Criminal Justice practitioners need to understand how Pathway Plans can work positively for a young person caught up in the criminal justice system. This requires of the practitioner a knowledge base and skill-set that is uncompromisingly on the side of the care leaver. It requires them to be guardians of the welfare principle.

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