



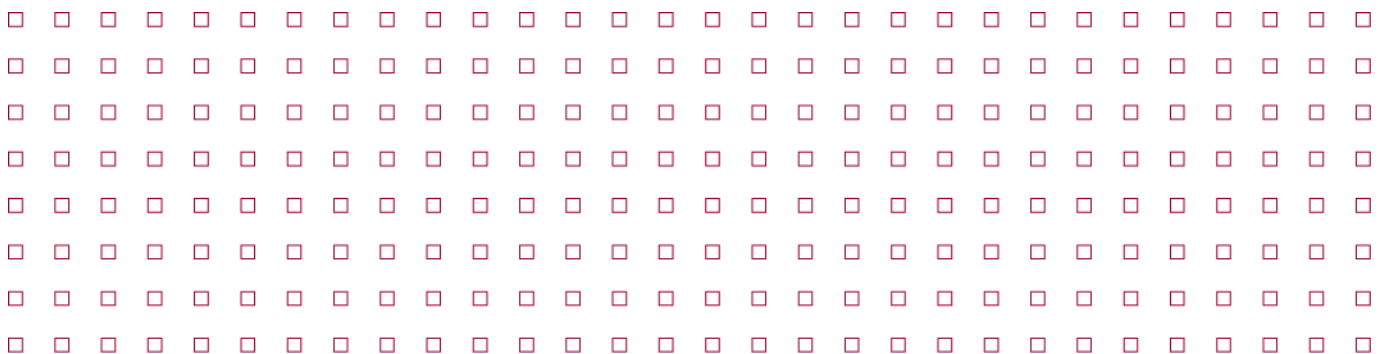
**Ministry of
JUSTICE**



Government response to the Office of the Children's Commissioner's Report: 'I think I must have been born bad' – Emotional well-being and mental health of children and young people in the youth justice system

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**Government response to the Office of the Children's Commissioner's Report:
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of children and young people in the youth justice system**

Introduction

On 23 June 2011 the Office of the Children's Commissioner (OCC) published '*I think I must have been born bad*', a report into the emotional well-being and mental health of children and young people in the youth justice system. The report contained 19 principal recommendations for the Ministry of Justice (including the National Offender Management Service), the Youth Justice Board and the Department of Health. The Ministry of Justice has co-ordinated a joint Governmental response to each of these.

Recommendations and responses

Commissioning

- 1. Commissioning of health services for children and young people in detention should be regarded as a specialist function and be undertaken by the Department of Health through the management and governance of the National Commissioning Board (NCB). This should be with the proviso that membership of the NCB includes representatives with specialist knowledge in child and adolescent health and child health commissioning. Provision must be predicated on the principle that every child in detention is entitled and has access to the same range and quality of services as children in the community. The aim must be to improve health outcomes for children who offend by addressing the key areas of public health, general physical health and well-being, and mental illness.**

We are fully in support of the sentiment that children in detention are entitled to, and should have access to, the same range and quality of services as children in the community.

It is already the case that all public sector Young Offender Institutions (YOIs) have health services commissioned by the NHS. Ministers agreed in May 2011 to the transfer of responsibility for commissioning health services in Secure Training Centres and Secure Children's Homes to the NHS. The only sites where the NHS will not directly commission services will now be Ashfield YOI and Oakhill Secure Training Centre – these are both privately operated establishments, with long periods left to run on their PFI contracts. Due to the length remaining in the contract period it would be costly to separate out the health element of the provision. We are committed to continuing to seek opportunities to bring both Ashfield and Oakhill more in line with the health commissioning arrangements for the rest of the estate. The Department of Health and the Youth Justice Board (YJB) will consider how this can be achieved during the life of the current contracts.

In December 2010 the Government confirmed in *'Liberating the NHS: Legislative framework and next steps'* that the National Commissioning Board (NHSCB) will have responsibility for health services for young people detained in the young persons' secure estate and, subject to legislation, we are proceeding on this basis. We agree that the NHSCB should have access to all the appropriate specialist knowledge on child and adolescent mental health and child health commissioning. The Department of Health and NHSCB, in its current form as a Special Health Authority, are currently reviewing the commissioning of prison and offender health with the intention that this single national body will mean an improved and consistent system across England.

The YJB and Department of Health will continue to work in close partnership to ensure that the health and well-being needs of children and young people in custody are met.

- 2. The Department of Health should ensure that there is an efficient and effective health screening process for all children entering custody. Children with identified risks regarding mental and physical health, learning disabilities, speech, language and communication difficulties and sexual health needs should be properly assessed and have access to services that are commensurate with the nature and needs of the problems presented.**

The Department of Health and the YJB have worked in partnership to enable the development of an evidence based screening tool specific to the needs of children and young people. The Comprehensive Health Assessment Tool programme is undertaking two pieces of work to ensure robust screening and assessment of children and young people across the youth justice pathway.

- CUSTODY – Implementation of Reception Screen and Comprehensive Health Assessment (April 2012)
- COMMUNITY – Piloting of Initial Health Screen and Comprehensive health Assessment for Youth Offending Teams (April 2012) and Testing of Youth Justice Liaison and Diversion filter (January 2012)

It is the responsibility of the local NHS commissioner to have completed a health needs assessment that results in the provision of health services that accurately meet the needs of those they are designed to serve.

The Department of Health is supporting NHS commissioners in this, through the development of a Health Needs Assessment tool initially for use in the secure estate for young people. This should support robust needs assessment, to enhance local knowledge of health and well being needs to inform and influence the Joint Strategic Needs Assessment process and subsequently the effective commissioning of services and wider planning/strategies.

- 3. Professionals from all disciplines working with children whether detained or in the community, should have a shared understanding, delivered through joint training, of key factors affecting child and adolescent health and well-being including child and adolescent development, attachment theory, resilience factors and children's rights so that they are competent to work with children in all settings. This would encourage and promote shared working between community-based mainstream services and those provided to children in custody and improve information sharing on admission, whilst in detention and when planning good transitions on exit.**

We agree with the principle behind this recommendation.

In secure settings

Some joint training does take place in Secure Children's Homes and Secure Training Centres. The Keppel Unit at Wetherby is one example of where joint training has worked well in a YOI setting and we would like this model to be extended across the estate. However there are practical difficulties in rolling this model out to existing YOIs, so at present opportunities are likely to focus around the development of new enhanced units in the YOI estate.

For individual custodial staff, we recognise the importance of ensuring that all staff working with young people in the secure estate are adequately trained with relevant knowledge of key factors affecting health and well-being. For example, the National Offender Management Service (NOMS) trains its custodial staff working in regular and direct contact with young people in the Juvenile Awareness Staff Programme (JASP).

A project is currently being initiated to update and enhance the JASP course, with a full review of the appropriate curriculum content. This will include child development, risk and resilience and consideration of issues around the health of children and young people in custody. The joint NOMS/YJB Workforce Development Board have approved the establishment of a Steering Group to assist in the development of this work, which will include representation from the Department of Education and Department of Health and the third sector. The aim is for the core modules to be completed by the end of this financial year, and consideration is being given to the inclusion of some additional modules that would be linked to professional learning paths.

In the interim, the JASP course will continue to provide staff with a comprehensive understanding of the issues that young people face in custody, including safeguarding, mental health, child protection and behaviour management. The current course has been developed to ensure that staff continue to receive a high level of training in order to work with and meet the needs of young people in custody. This training will remain relevant following roll-out by the YJB and NOMS of new case management and sentence planning training later this year.

In addition we believe that speech, language and communication issues are areas where staff could benefit from some enhanced training. The YJB has therefore commissioned the Communications Trust to work with NOMS to develop a new training module covering these areas. Initial plans are for this training to take place in 2012/13. This will build on existing work where the health commissioner has identified this requirement as part of the health needs assessment, commissioning a Speech, Language and Communication Needs service that includes training and support within the establishment

We are also considering how we can introduce continuous professional development within the training offered to NOMS staff. This may involve elements of enhanced training linked to role-specific personal learning paths.

In community setting

The YJB have commissioned awareness raising training for YOT staff which is being delivered throughout 2011/12. This training is designed to improve the understanding of YOT professionals and assist them to identify where young people may have speech, language and communication needs, flagging when referral to a specialist would be best, and helping them to tailor interventions to make them more meaningful for the young people and less liable to breach. Feedback from sessions provided to date is positive.

The Communication Trust has also developed, in association with the City and Guilds, a 3 unit award in Supporting Children and Young People's Speech, Language and Communication, which is registered on the Qualification and Credit Framework, which can count towards level 3 children's workforce diplomas which we will promote to youth justice workers undertaking these qualifications. This qualification will help staff to recognise the pattern of typical and non-typical communication development in children and young people, enabling them to support successful communication development.

The award has been designed for staff working in health, social care, youth justice, youth work and support work settings as well as those working as early years practitioners, teaching assistants and for support staff in a variety of childcare settings.

Assessment and information sharing

- 4. The Government should continue with the review of the ASSET assessment used when children become known to a Youth Offending Team and ensure that any new or amended assessment process focuses on emotional well being as well as good mental health. Training should include understanding and awareness of how the screening information is used to ensure children's needs are appropriately met including identifying when referral for further assessment or specialist services is required.**

The proposed improvements to the YJB assessment framework include improving the alignment between youth justice assessments and other local assessments. It is anticipated that this will bring about benefits for local youth justice and other local services in relation to their information sharing responsibilities. The YJB is continuing to develop the business case for the revised assessment framework, and in doing so has engaged with a wide group of stakeholders including those responsible for delivering assessments in youth justice services, policy makers across national and local government and the charitable sector. The proposals have been extensively tested and feature significantly improved screening for mental health and emotional needs designed to act as a gateway to (but not a replacement for) a full assessment for these issues. A decision on whether this project proceeds will be made this autumn.

5. A robust protocol should be developed and agreed between the Ministry of Justice, Department of Health, Department for Education and local government in relation to sharing health, education and social care information about children and young people in the youth justice system.

Responsibility for sharing information already exists through safeguarding legislation, the Working Together Guidance and through local information sharing protocols. In addition a cross-Government document, '*When to Share Information: Best practice guidance for everyone working in the youth justice system*', was published in 2008. We have no current plans to develop further guidance as the issues identified are already covered by this existing guidance. The YJB will identify a Young Offender Institution (YOI) with particularly effective information sharing arrangements and publicise this best practice.

Joint commissioning arrangements being developed for the commissioning of new services and facilities offer the opportunity for all Commissioners to set clear expectations and specifications for providers from the outset, reiterating messages within this guidance.

The YJB is in the process of implementing an improved system for setting effective practice priorities in collaboration with the sector and disseminating effective practice materials to the sector. This will include improving the processes by which examples of practice and interventions (including aids to practice such as information sharing protocols) are identified and shared across the youth justice system.

The proposed amendments to the YJB assessment framework described in our response to recommendation 4 above include improving the alignment between youth justice assessments and other local assessments. It is anticipated that this will bring about benefits for local youth justice and other services in relation to their information sharing responsibilities

There is currently a connectivity system in place that allows YOTs to provide information directly into the secure estate via the placements service. The system provides opportunities for improved information sharing and we will continue to look at what improvements can be made.

Placements and practices in the secure estate

- 6. The Ministry of Justice should make sure that the commissioning specification for the secure estate ensures that children are accommodated in small living units with a sufficient number of skilled and trained staff to meet their emotional and mental health needs. We recommend that no unit should hold more than a total of 150 children and young people and that their staff/child ratios should be at least equivalent to those currently in operation in STCs.**

We accept that the built environment should be conducive to working effectively with children and young people and that living units should be relatively small, even if within larger establishments. The YJB has commissioned a number of smaller specialist and enhanced units across the estate which have higher staff ratios to support the needs of young people. The YJB aims to expand the number of enhanced units across the country and sought views on what those units should provide through its current consultation on the secure estate strategy which closed on 11th October. The strategy outlines a set of core principles, two of which relate to the quality of the workforce and the nature of the living environment across the estate. Once consultation responses have been collated, the YJB will be working actively with partner commissioners for health and education services to consider the best way of achieving this strategy and vision. However, the aspiration of providing a built environment accommodating no more than 150 children and young people is extremely expensive and unaffordable at this current time. The cost of providing staffing ratios comparable to those operating in Secure Training Centres for the entire secure estate is equally prohibitive. We estimate that it would cost over £100m to replicate Secure Training Centre staffing ratios in YOIs. This is expenditure which could not be met from existing resources.

- 7. The Ministry of Justice and the YJB should ensure that the living environment for children and young people in custody is conducive to good emotional well being.**

The YJB will seek where possible to ensure that the living environment is conducive to rehabilitation and positive socialisation on release and will ensure that this issue is picked up in the YJB's Secure Estate Strategy. Where opportunities arise to improve the living environment we will do our best to influence those projects to benefit outcomes for young people. Evaluations from recent builds (i.e. Keppel) have shown evidence of positive engagement from both staff and young people regarding the unit's design. The YJB are currently working with the Ministry of Justice Estates Directorate to ensure that lessons learnt from the YJB capital projects are captured and fed in to any future capital projects in the young persons' estate.

8. Strip searching should only be used when there is a clear risk to safety and security identified by robust intelligence, and not as a routine procedure. This process should be standard across the secure estate.

As part of the YJB's Review of Full Searches – published in February 2011 – a commitment to risk-based full searches was made. This practice is already evident in Secure Children's Homes and Secure Training Centres and, following negotiation with the YJB, private sector YOIs have also formally adopted this practice. NOMS have agreed provisionally that an overall risk and intelligence based approach to full searching should be introduced in those of their establishments that are commissioned by the YJB. The proposed new policy has been included in a revised version of PSI 28/2009 'The care and management of young people'. A consultation exercise on the revised PSI is being completed, and NOMS now aims to have a final draft ready for approval by their Operational Policy Group at their meeting on either 12 December 2011 or 16 January 2012. Implementation will take place as soon as possible after approval is received.

9. There should be a review of catering arrangements in YOIs so that meals are well balanced and portion sizes increased. In general the quality and quantity of food in STCs and LASCHs is better than in YOIs and catering arrangements in YOIs should follow the models and funding of the smaller units. On-site kitchens are essential in ensuring food is of an acceptable quality and arrangements must recognise and make provision for the specific needs of developing adolescents. The practice of giving breakfast packs in the evening should cease.

The Service Level Agreement with NOMS will shortly be reviewed and the YJB will consider catering arrangements as part of that review. In the meantime, the current Service Level Agreement requires that YOIs must adhere to PSI 28/2009; this PSI makes reference to healthy eating:

"As part of the aim of helping young people to adopt healthy behaviours, food choices should, as far as possible, fulfil the requirement for a balanced healthy diet. Establishments should make available and positively promote a range of healthy meal components".

In addition, HMI Prisons and Independent Monitoring Boards (IMBs) carry out inspections at YOIs which look into catering arrangements and the food that is available at YOIs. If an inspection identifies areas of concern, recommendations are made to the establishment in order to ensure that any concerns are addressed.

In some YOIs, breakfast packs are routinely provided in the evening to young people who are scheduled to attend court the following day. The timing of court appearances means that it is often not possible to serve breakfast to those young people at the same time as the rest of the establishment.

Breakfast packs are therefore useful for providing an early meal to young people who may have lengthy journeys to court.

We are aware that some establishments also make wider use of breakfast packs. The YJB is working with NOMS to review the structure of the whole day experience for young people in custody, as part of which we will assess the use of breakfast packs for all young people. The initial scoping exercise for this work is due to be completed by the end of November, and timescales beyond then will be dependant on decisions taken at that point.

In addition, the YJB is in contact with the School Food Trust with a view to discussing potential initiatives to enhance food provision in the secure estate. Although this work is at a very early stage it is hoped that the feedback from young people received in response to the consultation on the MoJ/YJB Secure Estate Strategy will form the basis for further engagement aimed at improving the issues young people have identified concerning their food.

Staff skills

10. The Department of Health should, as a matter of urgency, implement Lord Bradley's recommendation that all YOTs should include a qualified mental health worker.

There is already a statutory requirement for YOTs to employ a health worker and the relevant guidance suggests YOTs and local health commissioners (currently Primary Care Trusts) should consider whether the post should be filled by a mental health professional. Data shared between YOTs and the YJB indicates that 151 YOTs have a CAMHS worker and, of these, 89 have facilities to deal with physical health as well. Additionally, the Prison Reform Trust publication, *Seen and Heard* (2010), explored the support needs of vulnerable young people in the youth justice system, reporting that 78% of YOTs had at least one mental health worker, 88% of YOTs had a dedicated health worker and a number of YOTs had additional health workers specialising in particular areas such as emotional, psychological and behavioural issues. Data does not indicate whether the same worker covers both physical and mental health issues. Where gaps are apparent the YJB is working with the YOT to ensure that there is provision of health services.

However, we believe it should be for each YOT Management Board and local health commissioner to undertake a health needs assessment of this population and commission the appropriate services to meet these needs. This local flexibility allows local arrangements which respond to the needs of local people.

11. The Ministry of Justice should ensure that the children's secure estate is staffed by dedicated staff selected for their suitability and commitment to working with troubled children and young people.

We agree that the young persons' secure estate should be staffed by dedicated staff selected for their suitability and commitment to working with children and young people. It is the long term aspiration of the YJB to see the creation of a discrete young people's secure estate. As one step towards this YJB and NOMS therefore have a joint workforce development programme, overseen by a programme board, to deliver improvements in training and development across the YOI estate. Following Office of the Children's Commissioner's recommendations, the Department of Health have been invited to sit as a permanent member of that board.

The YJB have developed a set of core competencies which it intends custody staff working in the secure estate to meet. An exercise to prioritise the competencies has taken place and those that relate specifically to working with children and young people will form the basis for providers to conduct a gap analysis against their individual competency frameworks. Providers will then be expected to demonstrate how they meet or propose to meet the YJB's competency expectations for custody staff that work with children and young people in secure settings.

In addition an exercise will be undertaken to match competency frameworks developed by education and health skills councils to those developed for custody staff, to ensure that a full set of competencies exist for all staff.

Specifically in respect of the YOI estate, NOMS supports the YJB's aim of a workforce that is recruited and trained specifically to work with children and young people. This approach has proved successful in the recruitment of staff at the Keppel unit at HMYOI Wetherby and following this NOMS have developed a dedicated campaign for future recruitment of staff to the young persons' estate.

At present all new recruits to the Prison Service must attend a Job Simulation Assessment Centre (JSAC). Those recruits that want to work in the young person's estate must pass the scenario which tests their competencies to work with young people. In addition, staff who wish to transfer into the under 18 estate from elsewhere in NOMS will have to pass an entry interview that will measure their suitability for working with this vulnerable group of offenders.

12. Training in mental health awareness and child and adolescent development should be mandatory for all staff working with children and young people in the youth justice system.

Basic training in mental health awareness is available to all youth justice practitioners on the Youth Justice Interactive Learning Space (YJILS), developed by the YJB and the Open University. The YJB strongly encourage all practitioners to make use of the materials available to them. However, it is accepted that the local leadership of the youth justice system means that Local Authority services and other service providers will direct their staff in matters of training and professional development as they see fit.

All secure estate staff have recently been given access to the YJILS materials. Early monitoring reports indicate that all sectors of the estate are engaged and feedback from establishments has been positive. The YJB will continue to work with providers to actively promote and encourage staff to participate in the opportunities YJILS presents.

NOMS trains custody staff working in regular and direct contact with young people as part of the JASP course, which provides a comprehensive understanding of the issues that young people face in custody. As discussed in our response to recommendation 3 above, JASP is due to be updated and new modules will include an enhancement to the curriculum content with regards to meeting the health and emotional well-being needs of children and young people in custody.

13. Commissioners should work with local workforce development personnel to ensure that they understand and commission the right skill mix of care and health staff in units.

Commissioners should commission or specify a particular service or skill mix of staff in units to the extent that this directly relates to an intended health outcome or benefit for children and young people in secure settings. This is in line with the spirit of the proposed NHS reforms to measure success and performance by outcomes, and to improve the positive experience of people who use health services.

14. Governors and senior managers should undergo basic training in emotional health, wellbeing and mental health, and child and adolescent development in order that their understanding can inform the practice of their staff.

We believe that all governors and senior managers should receive specific training for their roles and, as described in our response to recommendation 3, a project is being initiated to develop and enhance the JASP package. The work to consider the appropriate curriculum content will include identifying relevant training in relation to all the areas identified in this recommendation. The work will also consider appropriate targeting of training to different grades and professional groups and development of a set of bespoke learning pathways for staff working in the young peoples' secure estate.

15. Governors and Directors should ensure that all staff have access to online learning tools from:

- **Royal College of Nursing**
(www.rcn.org.uk/development/learning/learningzone)
- **CHIMAT** (www.chimat.org.uk/camhs)
- **Royal College of Psychiatrists**
(www.rcpsych.ac.uk/mentalhealthinformation/childrenandyoungpeople.aspx)

The YJB have recently commissioned an expansion of the YJILS system to allow access by all secure estate practitioners and managers. This facilitates access to a range of online training courses relevant to working in the secure estate. Additionally the project to develop JASP will consider relevant curriculum content in relation to physical and mental health and well-being.

NOMS have agreed that it should be relatively straightforward to provide access to the above websites and will consider how they may best be accessed. Because some groups of staff may have limited access to IT equipment NOMS will also consider which elements from the websites may be used to inform the new JASP course being developed.

Re-settlement

16. There should be a statutory duty on local authorities to provide support services for children and young people leaving custody over and above those dictated by criminal justice statute. We recommend that the support provided should be comparable to that for children leaving care under the Children (Leaving Care) Act 2000.

There are already a range of statutory obligations on the part of local authorities to provide suitable accommodation and related support as well as wider duties to prevent offending and reoffending. We have also recently announced new financial support for social workers in YOIs, which should ensure better links to support in the community.

In line with wider policy on localism we are seeking to further incentivise Local Authorities through piloting financial incentive schemes in youth justice (as set out in the Government's response to the consultation on the Green Paper *Breaking the cycle: effective punishment, rehabilitation and sentencing of offenders*) and are working with local authorities to improve resettlement support through the developing network of resettlement consortia. These comprise statutory, voluntary and private sector partners working together to deliver enhanced resettlement support.

The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Bill, currently passing through Parliament, proposes fresh legislation that would see all young people remanded to youth detention accommodation becoming 'looked after' by the local authority. Previously this only applied to young people on Court Ordered Secure Remands. This will be accompanied by a transfer of funding to local authorities who, under the measures in the Bill, will become responsible for the cost of remands to youth detention accommodation. However, this will act as an incentive to invest in alternatives to remand. The relevant legislation is currently at the committee stage and the Ministry of Justice and YJB are working closely with the Department for Communities and Local Government and the Department for Education on the introduction of these measures.

17. The YOT mental health professional should attend the pre release sentence review meeting of any child with identified mental health or other complex needs and ensure that, where indicated, the release plan ensures timely input from external specialist services in the child's home locality. Full use should be made of technology to facilitate participation.

The YOT mental health professional, alongside other key workers, should attend the pre release sentence review meeting as and when appropriate to the needs of the individual child. We agree that having the most appropriate health input into the sentence planning and review process for all young people with identified health needs is essential.

eAsset, the case management system for the secure estate, is currently undergoing a system upgrade. The upgrade aims to deliver improved alignment of sentence planning and case supervision practices including those serving indeterminate sentences and will involve additional staff training and practice guidance for senior managers. The training will focus on improving practitioner skills around release planning and how to identify and influence key partners to contribute to the overall process including health professionals.

18. The Government should review and amend legislation to ensure that children who are Accommodated under Section 20 of the 1989 Children Act immediately prior to a custodial sentence, continue to receive services from their local authority children's services, as if they were still Accommodated.

Amended Children Act 1989 guidance and regulations with regards to Local Authority responsibilities towards former looked after children in custody was published in November 2010. These outline specific new duties to young people who were accommodated under section 20 of the Children Act 1989 prior to sentence. Effectively, Local Authorities are under a duty to visit section 20 former looked after children when they are sentenced to custody, and determine the ongoing level of need and whether they are likely to require accommodation on release. The Local Authority has to determine this based on need, and take appropriate action to plan for release, as well as providing assistance for the duration of the sentence.

The YJB will be funding a number of dedicated social work posts in YOIs for the next three financial years (until March 2014). The introduction of these posts contributes to maintaining the safety of young people in the youth justice system by assisting Governors in meeting their safeguarding duties under section 11 of the Children Act 2004. This decision provides an opportunity for Local Authorities to strengthen their links with secure establishments and could have a particular impact on the resettlement outcomes for those children and young people who are, or have been, looked after or have high levels of need.

NOMS will be working with establishments to develop protocols that support the early identification, timely assessment and effective care planning of section 20 former looked after children, and will ensure these are referenced in establishment resettlement and safeguarding policies to ensure they receive the statutory services they are entitled to. An objective has been added to the NOMS Young People's Team's current business plan to undertake an initial scoping exercise for this work, but due to a large number of competing priorities the main work is unlikely to take place before the next financial year.

Inspection

- 19. There should be a single inspectorial body and regime across the secure estate which has demonstrable expertise in inspecting closed institutions and the particular risks they embody, particularly for children with complex needs.**

Both Ofsted and HMI Prisons have significant expertise in inspecting closed institutions. The YJB is currently working with Ofsted and HMI Prisons to develop a joint inspection framework for Secure Training Centres, which will bring together the expertise of both Ofsted and HMI Prisons. The Care Quality Commission is also linked in with this work. This new joint inspection framework will be implemented in Secure Training Centres in 2012. There has not yet been any commitment to use the same framework or to have joint inspections for all sectors, as such a decision would need to be informed by the lessons learned from the Secure Training Centre inspection project.

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