

Q1) In what capacity does your work bring you into contact with the offence of child cruelty at section 1 of the Children and Young Persons Act 1933 (see annex)?

The Children's Society is a leading national charity, providing vital help to the most vulnerable children, young people and families in our society through a range of services. We work with over 48,000 children each year, supporting them and advocating on their behalf to tackle discrimination or disadvantage in their daily lives. Our priority is children who have nowhere else to turn, such as young refugees, children at risk on the streets, disabled children and children in trouble with the law. We seek to give a voice to children and young people and influence policy and practice so they have a better chance in life.

Our response is based on evidence from our research and direct work with looked after children, children who have been sexually exploited or are at risk of abuse and exploitation and children who run away from home or care. We deliver nine projects working with children who run away or are at risk of being sexually exploited, supporting around a thousand children every year. We have campaigned to protect young runaways through policy, research and practice for over 25 years. We also work with looked after children through nine projects that provide advocacy services, support independent visitors for looked after children and support children in care councils.

We work with children and young people before, during and after formal child protection proceedings. Many of these cases will include criminal offences under Section 1 of the Children and Young Persons Act 1933. Our services operate within a multi-agency context, sharing information and feeding into risk assessment processes and child protection conferences, for example, Multi-Agency Safeguarding Hubs and MARACS.

As well as providing direct services to children, young people and families, we are committed to sharing our knowledge and expertise. For example, our research into adolescent neglect showed that professionals perceived of teenagers as more resilient and able to cope with maltreatment than younger children, and that these perceptions affects how cases of older children are assessed and whether protection is offered to them.¹

Also since 2005 The Children's Society, in collaboration with the University of York, has run a research programme which has developed robust methods for measuring and understanding the subjective well-being of children and young people across the UK², founded directly on the views of children and young people. We have established a national dataset on subjective well-being through asking well-being questions to over 30,000 children and young people aged 8 to 16³.

¹ Rees, G., Gorin, S., Jobe, A., Stein, M., Medforth, R., Goswami, H. (2010) Safeguarding young people: responding to young people 11-17 who are maltreated.

² More information available from <http://www.childrenssociety.org.uk/what-we-do/research/well-being/background-programme-0>

³ The Good Childhood Report 2012. A review of our children's well-being. Available from http://www.childrenssociety.org.uk/sites/default/files/tcs/good_childhood_report_2012_final_0.pdf

Q2) What type of conduct do you understand the section 1 offence to cover currently?

Scope of behaviour covered by section 1 is specific and limited covering:

- The physical harm done to a child.
- In 1981 the House of Lords restricted the offence to a child's 'physical needs rather than its spiritual, educational, moral or emotional needs.
- Hence, it does not cover emotional harm.

Cruelty to a child must be 'wilful' to be considered a criminal offence.

- This means a person was aware that some harm might be caused to the child if they did not act, and they nevertheless ran that risk when it was unreasonable to do so.
- Unclear how neglect as an act of omission can be wilful.

The conduct must cause unnecessary suffering or injury to health.

- It is unclear what conduct that causes unnecessary suffering, rather than just suffering, might be.

Injury to health includes injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement:

- Unclear what 'mental derangement' is - hence what type of conduct this might cover, though appears to have been overtaken by 1981 ruling the exclusion of non-physical harm.

Q3) Do you think there are any aspects of child cruelty which the offence does not currently cover which it should?

The offence does not cover the range of harm done to children. Specifically it does not cover emotional harm done to children, even though emotional harm can be just as damaging and have serious and negative long-term effects.

An absence of emotional warmth and support is likely to be detrimental to psychological well-being and, potentially to mental health.⁴ Studies of neglectful parenting indicate that young people may be more likely to internalise problems and become depressed. Young people also say that neglect can lead to difficulty with sleeping, self-harm and suicide.⁵ This contributes to very negative long-term outcomes for a young person, including risky behaviour, poor academic achievement, anti-social behaviour and offending.

There are issues around how universal and targeted services respond to young people who are neglected, especially for 16 and 17-year-olds. These include an ongoing problem with the definition of and thresholds for referral or action. Many professionals feel reticent about how to deal appropriately with adolescent neglect, to some degree because they are

⁴ Thornberry *et al.* (2001); Vazsonyi, Hibbert and Snider (2003); Arata *et al.* (2007).

⁵ Brookes and Flower (2009).

misinformed about young people's capacity to cope, but also because systems may not be 'fit for purpose'.

The Children's Society led the first comprehensive research study in the UK on maltreatment of adolescents.⁶ *Safeguarding Young People* was conducted in partnership with the University of York and the NSPCC. The study explored accessibility of agencies and how they responded to young people and found:

- A lack of services for this age group.
- Wide variability of responses – across different children's social care services but also within local areas – caused, for example, by different thresholds for referral.
- Older young people – those aged over 14, but especially when approaching 16 – were increasingly less likely to be referred or to receive a child protection response.
- Issues with professional attitudes that impacted on the operation of systems and processes. Professionals think that adolescents are:
 - less at risk of harm than younger children (and sometimes perceived as 'putting themselves at risk').
 - more able to cope with the effects of maltreatment.
 - more likely to remove themselves from abusive situations.
- Professionals may hesitate to refer maltreated adolescents into the system because:
 - they believe there are insufficient resources and their concerns may not be acted upon, or that delays in response might expose young people to further risk.
 - they are aware of complexities around the volition of young people themselves in the process (e.g. where a young person did not want to be referred).
 - they fear their working relationship with the young person and their family will be significantly compromised.
 - they judge that the child protection system is not an appropriate route for a neglected adolescent, because it lacks flexibility in responding to the different situations adolescents may present (e.g. maltreatment outside the family, increased agency of young people – 'choosing' to participate in risky behaviours), and because it struggles to accommodate a young person's active participation.

⁶ *Ibid.*

With particular reference to neglect, problems around definition and thresholds resonated across the research, and the principal concern expressed was that there was often an absence of decisive action *"despite increased awareness of the effects of neglect, referrals to services tend to be triggered by a particular event or another concern, such as sexual, physical abuse or severe domestic violence rather than because of ongoing concerns about neglect"*.⁷

Q4) What is your experience and opinion on how the section 1 offence and civil child protection procedures work together in practice?

The criminal and civil law need to work together.

The Children's Society work and research with young runaways show why it is important for different agencies to have a shared understanding of risks, definitions and good working together practices to ensure that vulnerable children do not slip through the net of services. Very often to build the whole picture of child neglect and abuse agencies need to piece together information that come together from a range of sources – health, education, the police and voluntary sector organisations. Where it does not happen, as demonstrated in some recent cases of child abuse and child sexual exploitation, the children remain without the help need till the situation reaches crisis point.

The All Party Parliamentary Groups' inquiry on children going missing from care, which we supported last year, showed that a lack of understanding of risk factors and behaviours that may indicate abuse and neglect, as well as negative professional attitudes lead to failings of child protection.⁸

There is a clear need for a shared common sense definition that takes into account the real harm done to children and young people. And such a common definition needs to be supported by joint training and shared understanding of thresholds for intervention among all local agencies and across local authority borders in cases of some children.

⁷ Rees *et al.*, pp.88-89 (2010).

⁸ All Party Parliamentary group on Missing children and adults and All party parliamentary group on looked after children and care leavers (2012) Inquiry into children missing from care. London: The Children's Society