

Corporate Parenting Board

23 November 2023

Children in Care at Risk of Offending and Custody

Choose an item.

Portfolio Holder: Cllr B Quayle, Children, Education, Skills and Early Help

Local Councillor(s):

Executive Director: T Leavy, Executive Director of People - Children

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Report Status: Public

Brief Summary:

Children in care are over-represented in the national justice system, both in terms of numbers entering the justice system and among those who are detained in custody.

There is a local multi-agency protocol to reduce the criminalisation of children in care. The scope and implementation of this protocol is summarised in section 1, along with other measures to reduce the numbers of children in care entering the justice system.

For those children who do enter the justice system the Youth Justice Service provides a multi-disciplinary response, in partnership with other services, to reduce the risk of further offending and to avoid the use of custodial remands and sentences. Section 2 of the report outlines the work that is undertaken, the approach to children placed out of area and issues relating to the use of custody for Dorset children in care.

Recommendation:

That the Corporate Parenting Board notes and supports the work being done to reduce the criminalisation, offending and incarceration of children in care.

Reason for Recommendation:

To ensure that the Corporate Parenting Board is informed of the issues relating to children in care at risk of offending and of the work being done to address these issues.

1. Diverting children in care from the justice system

- 1.1 It has long been recognised that children in care are more likely to be criminalised than other children. Previous national reviews have examined this issue, contributing to the publication in 2018 of “The national protocol on reducing unnecessary criminalisation of children in care”. This national document drew in part on the multi-agency pan-Dorset protocol which was developed in 2016. More information is provided below about the continuing implementation of our local protocol.
- 1.2 Decision-making in the youth justice system should take account of a child’s care status. The “Child Gravity Matrix” is a national document which provides guidance on the seriousness of child offences, aggravating and mitigating features, and commensurate decision-making. The latest version, published in September 2023, cites a child’s care status as a mitigating feature, noting that “children in care are more likely to be vulnerable as a consequence of experienced trauma. This affects their behaviour disproportionately and increases their risk of becoming a victim of crime or being exploited. It is important to take this into consideration when choosing an appropriate disposal option”.
- 1.3 One of the reasons for children in care being over-represented in the justice system is that they can be criminalised for their behaviour at home when similar behaviour in a family setting would not lead to the police being called. Our local multi-agency Protocol for Reducing the Criminalisation of Children in Care provides guidance for children’s homes, supported housing projects and foster carers on when it is appropriate to call the police. The aim is to manage children’s behaviour without unnecessary police involvement.

- 1.4 A multi-agency group meets four times a year and reviews all incidents when the police have been called to a children's home or supported housing provider in response to the behaviour of a child in care (safeguarding issues and missing persons reports do not fall under this protocol). The protocol also covers foster placements but there is less of an issue with foster carers calling the police to deal with the child's behaviour at home.
- 1.5 The process of reviewing each incident enables us to check that local children's homes and supported housing providers are continuing to follow the protocol. Dorset Police allocate a Single Point of Contact for each children's home or supported housing provider which enables us to follow up any concerns.
- 1.6 The group monitors performance data about the number of police call-outs across the whole Dorset Police force area. It is difficult to compare data from one year to the next because the number of addresses being monitored changes as we become aware of new providers and as some projects close. Having noted that caveat, the data shows that in 2022/23 there were 35 police call-outs for criminal behaviour by children in care at their residential setting (including in the BCP Council area) compared to 46 call-outs in 2021/22 and 40 call-outs in 2020/21.
- 1.7 The reduction in police call-outs to children's homes is encouraging, indicating that residential providers deal with most incidents without calling the police. It is also encouraging that only one of the 35 call-outs in 2022/23 led to a criminal justice outcome for a child, compared to 4 criminal justice outcomes in 2021/22 and 5 criminal justice outcomes in 2020/21.
- 1.8 It is harder to apply our local protocol to placements outside our area. Although there is a national concordat, which requires local areas to have a protocol in place, the coverage and application of these protocols is inconsistent. Colleagues from our commissioning services participate in our local group and aim to include its principles in the commissioning and oversight of contracts for placements in other local authority areas.
- 1.9 In late 2022 the Ministry of Justice announced a new approach to diverting children from the justice system, called the 'Turnaround' programme. Funding has been provided to support assessments and interventions for 'children on the cusp of the justice system', enabling these children to be diverted away from the system. The design of the programme stipulates

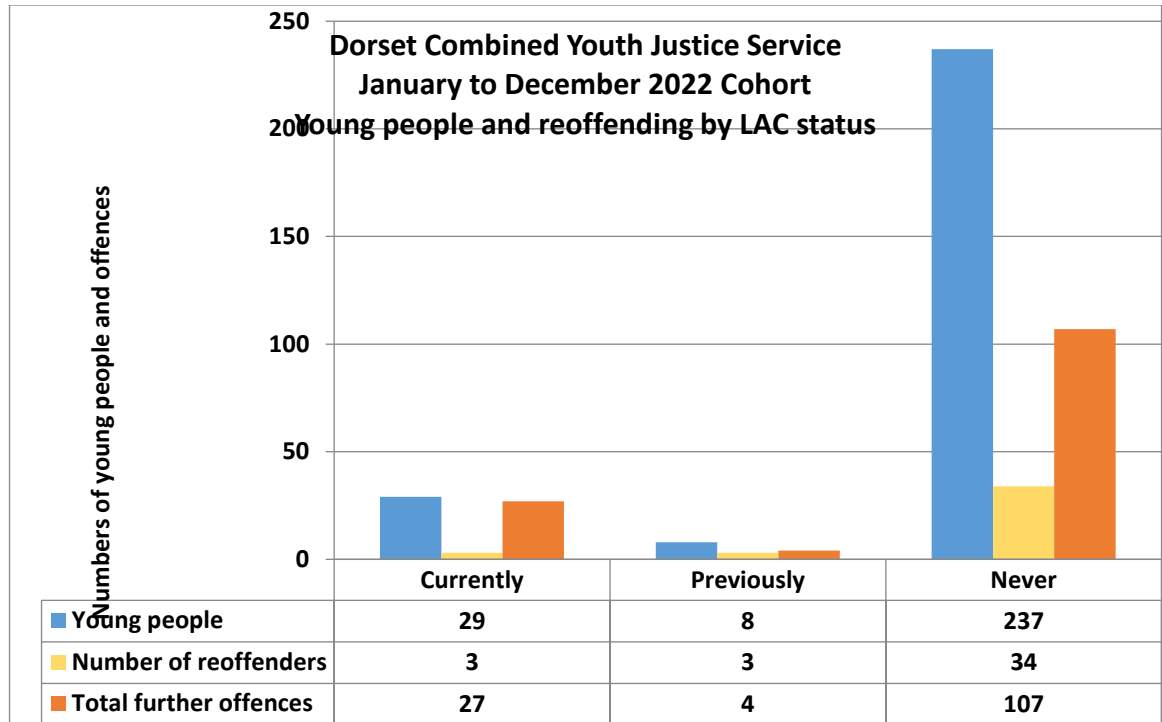
that children in care are excluded on the grounds that local authorities already receive funding to support their work with this group. Locally we have taken the decision to apply the same diversion route to children in care and to fund the work from the Youth Justice Service budget.

2. Support for children in care who have entered the justice system

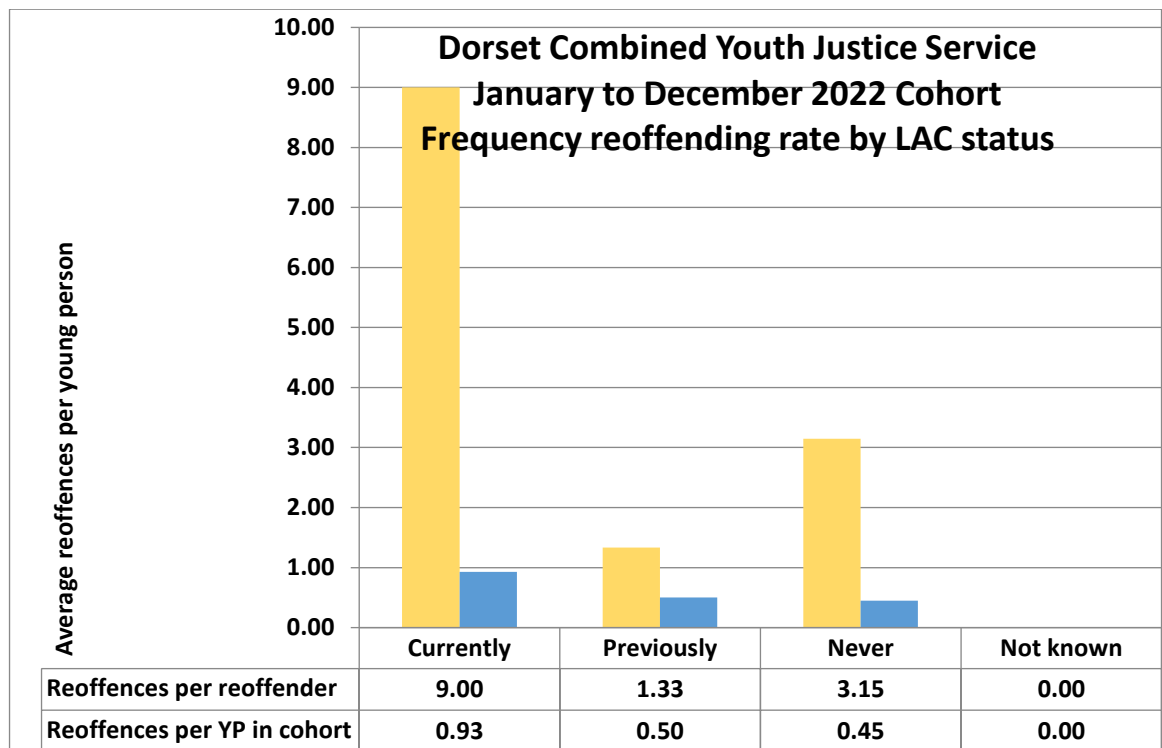
- 2.1 Dorset Combined Youth Justice Service (DCYJS) works with all local children who have entered the justice system, ie they have received a Youth Caution, a Youth Conditional Caution or a court order for a criminal offence. If a Dorset Council child in care receives one of these youth justice outcomes while living in another local authority area, DCYJS has 'case responsibility'. This means that the allocated DCYJS Youth Justice Officer oversees the work, usually with the local youth justice service providing the direct work. DCYJS also provides the same reciprocal service, ie working directly with children in care from other local authorities who live in the Dorset Council area.
- 2.2 Current delays in the criminal justice system can at times lead to children remaining under investigation for alleged offences for many months. As well as negatively affecting the victims of the offences, these delays can also give an implicit message to the child that their offending carries no consequences, increasing the risk of further offences and making it harder to work with the child to help them change their behaviour. DCYJS is now looking to engage these children on a voluntary basis during the investigation period, working alongside other services such as The Harbour. This enables our workers to build a relationship with the child which can be continued if the child goes on to receive a caution or court order for the offence under investigation.
- 2.3 Analysis of the current DCYJS caseload of Dorset children, in October 2023, shows that there are 12 children in care among the 55 children on the caseload. 4 of the children in care are receiving support before entering the justice system, 1 child is subject to a Youth Conditional Caution and the remaining 7 are on court orders. 2 of the 12 children in care are currently detained in secure settings. As well as these 2 children, another 6 children are placed in accommodation outside the Dorset Council area.

- 2.4 It is notable that 6 of the 12 children in care on the DCYJS caseload have Education, Health and Care Plans (EHCPs). The rate of EHCPs on the whole caseload is around 30%. The DCYJS Education Officers work closely with colleagues in the Virtual School to help meet the education, training and employment needs of children in care. The link between additional education needs and the likelihood of offending is well-established and is compounded by the co-existence of other needs such as family breakdown, emphasising the need for a holistic response.
- 2.5 DCYJS is a multi-disciplinary team. As well as youth justice officers, the team includes CAMHS nurses, a psychologist, speech and language therapists, education and careers specialists, restorative justice specialists, a probation officer and two police officers. In recent years the service's priorities have included a focus on children's speech and language needs and the application of trauma-informed practice.
- 2.6 The YJS Speech and Language Therapists complete a speech and language assessment for all children on the YJS caseload, which enables the child to understand their communication needs and to support YJS workers to improve their work with the child. These assessments are also shared with the child's social worker and carers to help them adjust how they communicate to meet the child's individual needs.
- 2.7 Trauma-informed practice means that the team seeks to understand the impact of past traumatic experiences on the child and how it affects their current behaviour to work out the best way for workers to respond to these needs. The YJS Psychologist leads multi-professional formulation meetings, under an approach known as 'Enhanced Case Management', to develop a shared understanding and consistent approach to meet the child's needs.
- 2.8 Evaluating the effectiveness of YJS interventions can be difficult. The most obvious measure is to consider reoffending rates, though this measure is dependent on reconviction rates and does not consider any changes to the gravity of the offences. Reoffending data for DCYJS work with children in care, or previously in care, across both Dorset and BCP Council areas, is summarised in the following tables. The data relates to young people who received a justice outcome during 2022.

2.9



2.10



2.11 The first table, in paragraph 2.9, shows the number of children in care who reoffended, the number of children previously in care who reoffended and the number of children who have never been in care who reoffended. The

- highest reoffending rate relates to children who had previously been in care.
- 2.12 The second table, in paragraph 2.10, shows the average number of further offences committed by those who reoffended. There is a much higher average number of further offences for children who are currently in care.
 - 2.13 Taken together, the tables show that only 3 out of 29 (10.3%) of children in care reoffended but on average they each committed a further 9 offences. This indicates that most children in care did not reoffend but there was a high frequency of further offences committed by those who did reoffend.
 - 2.14 Custodial sentences or remands can change a child's care status. If a child is remanded into custody they become a child in care for the duration of the remand period. If a child who has been accommodated under s20 is sentenced to custody, their care status lapses, at least until their release. A child who is subject to a full care order retains their care status during a custodial sentence. Whatever the legal status, the allocated YJS worker liaises closely with the child's social worker or PA to integrate the support and release plans for the child.
 - 2.15 Although the numbers entering custody are very low, most custodial outcomes represent a combined failure to provide a suitable community sentence which has the confidence of the courts. In some recent cases, the custodial remand or sentence might have been avoided if there had been a suitable residential placement for the child. Effective community sentences require a suitable address to provide stability for the child and to enable multi-agency plans to address health and education needs, possibly alongside risk management controls such as electronically monitored curfews. It is also important to confirm a child's post-custody accommodation well in advance of the release date. The difficulties in finding suitable residential placements can make this hard to achieve, with accommodation sometimes not being confirmed until the day before release.
 - 2.16 DCYJS was subject to a full joint inspection, led by HMI Probation, in September and October 2022, with the report being published in January 2023. The overall rating for the service was 'Good'. The inspection report included a recommendation for the YJS Partnership Board to 'improve partnership working with children's social care by ensuring YJS case manager involvement in all statutory multi-agency meetings and improve their direct access to children's social care records'. In response to this

recommendation, all YJS case managers now have access to the Dorset Council 'Mosaic' system and the YJS monitors if case managers have been invited to and have attended statutory multi-agency meetings.

3. **Financial Implications**

There are no financial implications from this report.

4. **Natural Environment, Climate & Ecology Implications**

No environmental, climate or ecological implications have been identified in this report.

5. **Well-being and Health Implications**

The health workers in DCYJS liaise with the Child in Care health team to help meet the health needs of children in care who have contact with the justice system. It is recognised that young people in the youth justice system often have unmet, and sometimes unidentified, health and communication needs. The above report contains more information about how the YJS works to meet these needs.

6. **Other Implications**

No other implications have been identified.

7. **Risk Assessment**

7.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Medium

8. **Equalities Impact Assessment**

This report does not relate to new working arrangements and therefore an Equalities Impact Assessment has not been undertaken.

It is recognised however that children in care are over-represented in the youth justice system, adding to other disadvantages experienced by this group. This report sets out some of the actions taken to prevent children in care entering or progressing through the justice system.

9. **Appendices**

None

10. **Background Papers**

None