

**A REVIEW OF SERVICES FOR CHILDREN IN CARE IN THE UK SINCE
1945 AND A COMPARISON WITH THE SITUATION IN JERSEY**

A paper prepared for the Jersey Independent Care Inquiry

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A REVIEW OF SERVICES FOR CHILDREN IN CARE IN THE UK SINCE 1945 AND A COMPARISON WITH THE SITUATION IN JERSEY

AIMS AND STRUCTURE OF THE PAPER

The purpose of this paper is to chart historical developments in children's services in the UK since the end of World War II and to compare what has happened in Jersey with the situation elsewhere, especially England.

It is a maxim of historians that we can only understand the present state of affairs by analysing our history. But there are several ways of doing this: one is to discuss changes using a time-line composed of important milestones and a second is to draw out general trends, in this case with regard to social work policy and practice with children in need. Both methods will be used in this paper.

Once the history (Part 1) has been charted, the policy/practice trends (Part 2) will be identified. For each historical period, a comparison will be drawn between legislation and guidance in the UK and in Jersey.

PART 1

Milestones in the Development of Children's Services in the UK since 1945

Introduction

1. The interaction between the factors influencing childcare policy and practice, such as conviction, war, the media, research, legislation and professional development, is complex¹. A force for change in one situation, such as radical legislation that imposes a new activity on professionals, can hold things back in other circumstances, such as when legislation lags behind public opinion. Thus, the factors affecting change are radical and reactionary at different times, a situation that has to be borne in mind in any history of social policy.
2. Two other notes of caution have to be sounded before commencing. The United Kingdom comprises four countries and there are differences in legislation, administrative arrangements and professional structures. Obviously a four-fold review of every point would be cumbersome and unnecessary as the general aims of services are similar. Nevertheless, there are some important differences in the history of services. Scotland, for instance, operated a poor law system that was different from that elsewhere, had a different education system and a high rate of fostering (around 75% in 1948) for children in care. Also, the Scottish Office as a single government department was able to introduce change more easily than was possible in England, so setting a continuing tradition of reforms coming from central government rather than from practitioners or researchers. Differences in the administration and details of services continue, the most significant of which is the use of child hearings rather than courts to make decisions and the ability of the local panel, whose members comprise a mixture of lay and professional

people, to specify where a child should live, irrespective of the recommendations of professionals. There is rarely disagreement but this did create a problem in Fife in the 1990s when the director of children's services refused to implement the panel's decision to send a boy to a boarding school that he thought was abusive. This led to a judicial inquiry that upheld the panel's legal right. In addition to this difference, the age of criminal responsibility is set at eight rather than 10 as in England and Wales, gay and lesbian couples were barred from fostering until 2009 and there is a sympathetic view of residential care whose work is supported by a government-funded research instituteⁱⁱ.

3. In Northern Ireland the implementation of the *Children's Order* of 1995 made the child care system very similar to that of post-1989 *Children Act* England and Wales. However, the administration has long been marked by a much closer relationship between children's services and the local Health Board(s) – there is currently a single Health Board making the whole country like one large UK local authority.
4. Secondly, few statistics seem to be available on children receiving services in Jersey and there are no authorities in the UK that offer a comparison in terms of size and socioeconomic characteristics. The nearest equivalent would be a district council but information is not published at this level. There are some small authorities in Wales and Scotland but none appear to have social and economic contexts similar to Jersey. All of this makes interpretation and comparison difficult but some forecast can be made.
5. With regard to children in need, the annual government survey shows that in England on March 31st 2013 378,000 children were receiving a service and 52,000 were subject to a care plan. Rates varied from 785 per 10,000 children in poor areas to 154 in the more prosperous ones. Just over a quarter (26%) of the children were aged under five and 30% were aged 10-15. During the financial year 2012-13, there were 593,000 referrals, 441,500 of whom received an initial assessment and 232,700 of whom were the subject of a child protection investigation (Section 47).
6. With regard to looked-after children, in England, there were 68,000 children in care on March 31st 2013, a rate of 6.0 per 1,000 under 18s living in the area (this rate tends to be higher in deprived areas, although the association between these rates and measured need is not particularly strong). Of these, 55% were male, 78% were white British, 6% were aged under 1, 19% 1-4, 19% 5-9, 36% 10-15 and 20% sixteen or over. The reasons for care were: abuse and/or neglect 62%, child's disability 3%, parental illness 4%, family under acute stress 9%, family dysfunctional 14%, unacceptable behaviour 2% and absent parent 5%. Legally, 59% were on care orders (42% full, 17% interim) and 29% were in care under voluntary arrangements. The rest were freed for adoption or subject to a placement order.
7. Each year in England, around 28,000 children enter and leave care. Of those coming into care in 2012/3, just over half (53%) were male and 73% white British. Their ages were: 21% under one, 20% 1-4, 17% 5-9, 30% 10-15, and

12% sixteen or over. Reasons for admission were abuse and/or neglect 56%, child's disability 3%, parental illness 4%, family under acute stress 10%, family dysfunction 18%, unacceptable behaviour 3% and absent parent 7%.

8. These surveys suggest that the number of children receiving a service at any one time is about five or six times the number of those in care. So, applying these rates to Jersey, it would be expected that about 600 children in need would be receiving a service at any one time and that about 90 of them would be looked after. In the course of a year, the figures would be about 950 for children in need with about 40 coming into and leaving care.
9. Having identified the difficulties of the exercise and set the context for the discussion, the time-line of legislation will be charted.

The situation prior to 1948

10. Until 1919 the poor law responsibilities for children were vested in the Local Government Board centrally and the numerous poor law guardians locally. With the creation of the Ministry of Health that year, responsibilities were passed to the new department and the LGB disappeared.
11. Throughout the latter part of the 19th century the Home Office was responsible for the registration and inspection of the industrial schools and reformatories most of which had been set up after the 1850s by philanthropic bodies, almost all religious. After 1889 (*Prevention of Cruelty to Children Act*), it was responsible for the Fit Person Order system. As the term implies, a fit person was anyone considered suitable by the court to assume responsibility for a child judged to be in need of care and protection. However, from the start few private individuals were nominated and children were mostly committed to the care of corporate bodies, initially mostly the voluntary children's societies, such as Barnardo's, but increasingly the Poor Law authorities. However, the 1889 Act specified that the fit person had to be a named individual and this requirement sat uncomfortably with commitment to an organisation. Dr. Barnardo himself especially disliked the idea of being held individually responsible rather than the organisation. Hence, five years later the legislation was amended such that a corporate body could be regarded as a 'fit person'. Later, there was a Home Office Children's Branch that appointed inspectors and kept the statistics.
12. The Children Act 1908 was another important milestone but is only relevant to this history in that it widened the disposals available to magistrates to deal with young offenders. It provided alternatives to placement in industrial schools or prison custody, options that were further extended by the *Probation of Offenders Act* that soon followed and instigated community supervision. It is important to note, however, that these changes were not all progressive - another possibility was whipping.
13. The next important change came in 1930 (*The Local Government Act 1929*) with the replacement of the hundreds of local boards of poor law guardians by local authority public assistance committees. These administered the poor law

that included provision for the care of separated children. This change involved a major administrative reorganisation, for example the London County Council took over responsibilities from 25 groups of Poor Law guardians. Centrally, the Ministry of Health remained responsible for this as well as for the oversight of private fostering and private nurseries under the child life protection legislation, functions that fell to the medical officers of health and their staff locally.

14. Thereafter came the 1933 *Children and Young Persons Act*. It specified (Section 96(1)) that when children were committed to the care of the local authority on a fit person order, the county councils and county boroughs had to discharge their responsibilities through their Education Committees and not their Public Assistance Committees that administered the Poor Law. This reflected certain long-standing tensions between the Home Office (with overall responsibility for committed children) and the Ministry of health that oversaw the administration of the Poor Law. Furthermore, the Home Office had responsibility for the juvenile courts. One of the points of tension between the two central government departments was the respective roles of institutional and foster care. The Ministry of Health was markedly uneasy about the encouragement of foster care, believing that it provided insufficient protection for children against exploitation and misuse. The Home Office on the other hand, was much more enthusiastic about foster care and saw to it that the regulations associated with the 1933 Act required children subject to fit person orders to be boarded-out unless there were good reasons why that should not happen.
15. Other changes concerned the constitution and powers of the juvenile courts. The industrial schools were renamed approved schools (approved by the Home Office) and certain changes were introduced concerning the ages and duration of committals to these institutions, such as imposing a three-year maximum on how long children could be kept in an approved school.
16. So, by 1939 the government departments responsible for 'child care' were the Home Office and the Ministry of Health – but not Education. Locally, however, there were the public health committees, the public assistance committees and the education committees – all responsible to the parent local authority and its elected members.
17. In the context of the post-war enthusiasm for social reform, and especially the dismantling of the poor law, this untidy legal and administrative arrangement soon became the subject of outside scrutiny and the services that we see for children in care, or looked-after children as they are now called, today reflect the far reaching legislation of 1948.

1948-63

The Children Act 1948

18. A major review of services for children was underway in the last years of the Second World War and the outcomes of this, the 1946 Curtis Report in England and the Clyde report in Scotlandⁱⁱⁱ, provided the framework for the

new legislation. The need for reform was also highlighted by the death of a foster child (Dennis O'Neill) from physical abuse and malnutrition in January 1945. The Monkton Inquiry^{iv} into the circumstances surrounding Dennis's death revealed poor placement selection and supervision and raised general questions about the wisdom of placing children a long way from home (90 miles in Dennis's case), the lack of expert staff (the home area education department had few people knowledgeable about foster care) and the selection of foster parents (Dennis was on a fit person order, placed on a small farm and was expected to muck out).

19. The 1948 Act brought together three strands of provision for children who could not live with their families because their close relatives were unable or unwilling to look after them. This provision was being administered locally by public assistance committees (poor law), education and health. The Act ordered the setting up of a Children's Committee and the appointment of a Children's Officer in every local authority. In most cases, a separate Children's Department was created, but this was not a legal requirement and in some authorities the service remained in the clerks' department while in some smaller ones facilities were shared, as between Cornwall and the Isles of Scilly.
20. An especially important aspect of this change was that it moved responsibilities for child care out of the other local departments into a separate specialist one. With the abolition of the poor law, child care was no longer associated with stigma and issues associated with cash benefits and matters to do with care became separated. It did not, however, repeal the 1933 Act which continued to operate in parallel until 1969 with children committed by a fit person order under the 1933 Act placed in Children's Departments.
21. The 1948 Act maintained the distinction first introduced in 1889 by the *Poor Law Amendment Act* that allowed the local poor law authorities to pass a resolution to assume parental rights over children already in care. There had to be a good reason – usually that the child would be endangered if returned home – but the guardians did not have to seek the court's permission. It was an administrative procedure. Parents could seek to have the resolution withdrawn, but they had to bring their case to court and then the court decided whether or not the order should stand.
22. This provision meant that the guardians, later the public assistance committees, then the children's departments and finally the social services departments could keep a child in care against the wishes of the parent(s). This procedure was not abolished until the 1989 *Children Act*.
23. This parental rights resolution could only be applied to children who were in care on a 'voluntary' basis. Those on fit person orders could be kept in care against parental wishes in any case, although there were provisions for applications for the discharge of the orders.
24. Interestingly, despite bids from the Ministries of Health and Education, the Home Office was nominated as the government department responsible for the

management and oversight of the newly established children's departments in England and Wales. However, it was the Treasury that held the purse strings; it settled the rate support grants to local authorities and the children's committee had then to battle for its share of the pot. There was no money ringed fenced for children's services coming into local authorities. The Home Office soon produced guidance (although not a huge amount by today's standards) and extended the size and role of the inspectorate. Requirements were imposed on professionals by means of statutory orders, rules and regulations which carried the same legal authority as the Act. These covered areas such as court procedures and the conduct of residential and foster homes. They not only specified correct behaviour but also reflected a diminution in the absolute power of parents to decide what was best for their child. Guidance, memoranda and circulars that did not have statutory power were also issued, although there was no equivalent of what is termed 'statutory guidance' that has recently appeared alongside new legislation.

25. Within these limits, officials and carers were fairly free to act as they thought best for children. Caseloads were large in the 1940s and 50s, usually around 50 but sometimes as high as 70, and there was only moderate supervision of staff by today's standards. In rural areas many of the boarding-out officers worked alone. They took children to their own homes, accommodated them in emergencies, transported them in their cars, gave them money from their own pocket and got them up for school. There had been numerous scandals of staff abusing children in the nineteenth century and in the 1940s and 50s there were incidents related to the harsh regimes (but not abuse) in approved schools, such as the Standon Farm murder in 1947 and the Carlton House riot in 1959. But, those working as child care officers in the 1950s and 60s who have published memoirs or spoken about the 'old days' at seminars and conferences recall that the possibility of physical or sexual abuse by them or colleagues never crossed their minds and none of them could recall a single incident let alone an inquiry. One reason for this was that the overriding concern was the neglect rather than the abuse of children.
26. Staff in residential homes and schools also had considerable freedom and although most behaved responsibly, a few abused their authority by imposing made-up treatments (as happened later in the 1980s with Pindown^v) or taking opportunities to physically and sexually assault the children (as in the 1990s at Kincora and Bryn Estyn^{vi}), many of these situations only coming to light many years after the events. The Home Office greatly valued its work with deprived children as it softened its public image of having responsibilities for apparently harsher issues like law and order, prisons and immigration. When the move of children's services to another government department was first aired in the 1960s, the then Home Secretary, James Callaghan, was reported as saying, "We lose children's services over my dead body". The child care service also benefited at this time from a cross-party agreement that children's services should not be the subject of party political dispute, an arrangement that prevailed until the 1970s.
27. Although after 1948 these new departments quickly consolidated separate strands of work, they had to start from scratch. The new children's officers

came from a variety of backgrounds. In the county boroughs, the appointments were mostly men who had previously worked as senior managers in Education Departments and so were familiar with the workings of local government and committee procedures. In the shire counties, many more women were appointed and they came from a wider variety of backgrounds; for example Frances Drake (Northamptonshire) had been a factory inspector in the Second World War^{vii}. The smaller authorities tended to have fewer resources In the county borough of Dudley (then a county borough in Worcestershire), the first office accommodation was a caravan, travel around the borough was by bus and the children's officer's status within the organisational hierarchy was the same as the official responsible for weights and measures. But this contrasted with places like Birmingham and Manchester where large and well-endowed departments were soon operating.

Training

28. The Curtis Report had recommended a national programme of training for child care work in its Interim Report of March 1946 and opportunities began to be created in anticipation of the new Children Act^{viii}. Hence the Home Office provided full-time courses for graduates at prestigious universities and trained them to become what were still termed boarding-out officers, awarding them a basic qualification, the Home Office Letter of Recognition. A Central Training Council was formed to coordinate all of this in 1947. This professionalisation led to a change in name in the 1950s from boarding-out officer to child care officer. However, the proportion of staff who were qualified remained relatively low (in 1960 28% of child care officers were trained) and was lower still for residential staff as at first their training was usually the responsibility of the local authority.

The nature of services

29. The nature of the services varied enormously across local authorities. In some areas, such as throughout Scotland, there had been a long tradition of foster care but as many of the placements were in the Highlands and Islands, a long way from most children's home area, this must not be assumed to have been a good thing. Elsewhere the new departments inherited run down former orphanages and workhouse buildings. The Second World War meant that maintenance had been neglected and building materials for renovation were scarce. Residential care, therefore, comprised a mixture of establishments from small family group homes run by a married couple who, with domestic help, looked after half a dozen children in a quasi-family setting, often in two council houses knocked into one, to institutions with as many as 50 residents. In 1964, the proportion of children in residential care living in children's homes in England and Wales that were registered for more than 12 residents was 66% but this had fallen to 47% by 1969. The rate remained stable in the 1970s because of the incorporation of larger establishments, such as former approved schools, and was 52% for England in 1988, However, there was then a dramatic fall to 13% in 1995 and 9% in 2000 confirming the general demise of the large institution. In 2013, out of the 1,718 registered homes for children in England, only four are licensed to accommodate more than 20 children.

30. The numbers in care at any one time settled in the 1950s and 60s to about 70,000 in the UK with around 30,000 annual admissions and departures. But there were marked differences in the proportion of all local children who were in care and in how they were dealt with. In England, rates in care ranged from around three per 1,000 children in prosperous areas to 27 in poor ones. Similarly, in 1964, the overall fostering rate in England was 48% but this varied from 78% in East Suffolk to 30% in Worcester. A study seeking to explain this difference found that in each local authority the child care officers accepted without criticism the policy prevailing in their authority, that is high use of foster care in one and high use of residential care in the other, indicating a lack of informed consensus or a wider vision about what was best for separated children^{ix}. When Oxfordshire applied for central funds to open a residential reception centre for eight children in 1952, the Home Office replied that the number was far too small and, in any case, was not enough for a football team.
31. How does the situation described for the UK compare with that in Jersey? The following table compares legislation and major publications in each place^x and some observations are added (in italics) by the authors, although it must be emphasised that they are not trained lawyers.
32. The full texts of the key legislation and supporting documents, such as rules, regulations and guidance, are provided in Appendix Three.

Year	UK	Jersey
1948	<p>Children and Young Persons Act 1933 in force and continues</p> <p>Provision for young offenders Registration and inspection of voluntary homes</p> <p>Children Act 1948</p> <p>Amalgamated three strands of provision Children's officers and committees appointed Central Training Council established Duty of local authorities specified Standards of treatment of children in care Rules re contributions to maintenance Operation of voluntary homes and organisations Child life protection Administrative and financial</p>	<p>Children and Young Persons Act 1933 in force from 1935 by Order in Council</p> <p>Deals with: Offending Placement in a residential establishment Employment Court proceedings Provision of remand homes and approved schools</p> <p><i>(No apparent requirement to board out or use fit person orders No mention of Borstals)</i></p> <p>Loi (1940) sur la Protection de l'enfance</p> <p>Regulation of foster carers' duties and powers</p> <p><i>(Provides monitoring of children under</i></p>

	<p>provision</p> <p>Children Act 1948: Memorandum by the Home Office on the main provisions of the Act affecting voluntary homes and voluntary organisations in England and Wales: the Act designed to ensure that ‘all deprived children shall have an upbringing likely to make them sound and happy citizens and shall have all the chances, educational and vocational, of making a good start in life which are open to children in normal homes’</p>	<p><i>14 in foster care; age is 18 in England and Wales Child Life Protection legislation</i></p> <p><i>Nothing on the regulation of private nurseries</i></p> <p><i>Process of assuming parental rights same as 1948 Section 2 in England and Wales, i.e. by administrative fiat)</i></p> <p>Adoption of Children Law 1947</p> <p>Defines infant as under aged 20</p> <p>Approval of adopters</p> <p>Birth family’s consent</p> <p>Wishes of child</p> <p>Financial liability</p> <p><i>(Were there any war orphans in Jersey; they were an important group in the UK?</i></p> <p><i>Article 5 on maintenance: this was abandoned in England and Wales with end of poor law but continued in Scotland until 1970s. In Catholic European countries, it extends to relatives, especially grand parents)</i></p>
1949		
1950		
1951	<p>The Administration of Children’s Homes Regulations</p> <p>Memorandum on the Conduct of Children’s Homes (Home Office)</p>	
1952	<p>Children and Young Persons (Amendment) Act</p>	
1953		
1954		
1955	<p>Boarding out of Children Regulations revised and extended accompanied by the Memorandum on the Boarding out of Children regulations (Home Office)</p>	
1956		
1957		<p>Jersey Law: Modification of the</p>

		<p>1933 Act</p> <p>Adopters receive benefit of any insurance policies on the child</p> <p><i>(This was a major issue in the UK with respect to private fostering as it was thought to encourage baby farming and deaths. The 1908 Children Act banned foster parents from insuring the life of their foster child)</i></p> <p>Adoption of Children Amendment (Jersey) Law</p>
1958	<p>Adoption Act 1958</p> <p>Tightened regulations on third party adoptions Registered agencies More formal process</p>	
1959		<p>Adoption of Children (Amendment No. 2) (Jersey) Law 1959</p>
1960		
1961		<p>Adoption (Jersey) Law</p> <p>Concept of protected child Duty on Education Committee to promote the well-being of protected children Inspection of premises Power to remove child in emergency Restriction on removal of infants for adoption outside the British Islands</p>
1962		<p>Adoption rules</p>

1963-69

The 1963 Children Act

33. One major weakness of the 1948 legislation was that the children's department could only spend money on children once they were in care. The children's officers (now formed into an Association) and the growing profession of child care officers came to realise that this was a serious limitation and that more could be done to prevent admissions or to avoid bringing children to court. But the situation was that an expenditure on prevention was vulnerable to surcharge by the district auditor.

34. A change came in the 1963 *Children Act* which allowed local authorities to devote resources to prevent children from coming into care, thus broadening the remit of children's officers and laying the foundations for community care and family support that are characteristic of current practice.
35. This was an enormously important turning point that enlarged the tasks of children's departments. Of course, things did not just develop out of nothing and there were antecedents for this type of activity in the voluntary sector; the Family Service Units for example, a Quaker charity, employed staff to work in the homes of families under stress and join in the washing up and nappy changing.
36. The enthusiasm with which the new opportunities were taken up varied across local authorities. Some expanded but as extra money was not automatically made available to employ new staff, it depended on the local allocations within the overall financial budget, so the new work sometimes had to be shared among existing child care officers, causing some to complain that it diluted the resources that could be given to the children in care. There was also no special training offered. Nevertheless, the 1963 Act produced a major shift in priorities as well as administrative reorganisation and expansion.
37. Despite the consolidation of services for children in care, provision for the physically disabled and those with learning and behavioural difficulties were still largely separate, although such children did come in to care if families broke down. Education departments ran a range of special schools and local authority public health departments provided for the mentally handicapped, alongside a tranche of specialist provision for children with special needs run by voluntary agencies, although this declined rapidly post-1948. There were, however, some significant changes, such as a big fall and eventual disappearance in the use of residential nurseries reflecting the attention paid to the work of Bowlby, Tizard^{xi} and others on the detrimental effects of institutional care for the very young. Also, the placement of disabled children in what were called sub-normality hospitals was coming under scrutiny following the publication of influential books like Erving Goffman's *Asylums* and Maureen Oswin's *The Lonely Hours*^{xii}. These establishments were often huge, almost self-contained mini-towns with their own farms and gardens, and provided life-long care for children with what would now be termed learning difficulties or severe physical disabilities, as well for teenage girls defined as 'morally defective' in view of their becoming pregnant.
38. It was young offenders who gave the Labour Party in the 1960s a focus for setting the trend to incorporate different groups of children in need into a single legal and administrative system. Before 1969, young offenders had been dealt with by a process of supervision in the community (provided by both children's and probation departments, depending on local policies) leading for the recalcitrant (and for a few other groups such as persistent truants) to an order issued by magistrates for placement in an approved school, followed if this failed by a Borstal sentence for older teenagers.

39. Approved schools were mixed in terms of management: most were voluntary establishments run by the large charities, such as Barnardo's, the Salvation Army or the Rainer Foundation, or were run by a plethora of religious groups, such as orders of nuns and brothers and although largely funded by the Home Office (who carried out inspectorate responsibilities), they had their own managers. The Home office provided a *Handbook for Managers of Approved Schools* (1951) which dealt with a wide range of topics including punishment and appointment of staff.
40. By 1970, some were or had become the responsibility of local authorities. Around 10,000 children, 90% of whom were persistent male property (i.e. theft and burglary as opposed to violent crimes) offenders and 10% girls classed as in 'moral danger' because of their 'sexual promiscuity', were placed there at any one time. Most of the boys' schools had about 60 residents, those for girls were smaller, and stays often lasted for about two years^{xiii}.
41. The 1964 Labour government argued that these young people were, to use the language of the time, 'deprived' as well as possibly 'depraved' and needed more caring approaches. An opportunity to seek reform was seized in 1968 by the Home Secretary (Roy Jenkins) following revelations of excessive caning that broke Home Office regulations at Court Lees School in Surrey. The subsequent inquiry and dismissal of the headmaster greatly reduced the use of corporal punishment in approved schools but did not ban it because it was still legal in ordinary schools (see: *Administration of Punishment at Court Lees Approved School*, Report of Inquiry by Mr. Edward Brian Gibbons QC, 1967, Cmnd. 3367). This proved to be something of a challenge to those heads and religious orders, such as the De La Salle Brothers, who valued physical chastisement as an integral part of their educational philosophy. Having won this battle (there was a similar row when he overturned a magistrate's sentence for an inmate in Rochester Borstal to be birched), Jenkins laid plans to integrate the schools into the wider local authority residential provision available for children, a policy continued by his Conservative successor Sir Keith Joseph.
42. By the mid-1970s, all residential homes for children were called community homes and the former approved schools and some others which had facilities for education became known as community homes with education on the premises (CHEs and CHEPs in Wales). Most subsequently closed as services were reorganised and their provision came to be seen as isolated from wider social work, ineffective in providing what was needed and expensive to run. In Scotland they became List D schools. They remained unaltered for some time in Northern Ireland. In England and Wales, the need for a special residential order issued by magistrates was abolished and placement choice became a professional decision.
43. What is also important is that some politicians and magistrates saw this change as 'going soft on delinquency', thus threatening the consensus to keep child care out of party politics and the policy of separating juvenile delinquents from care cases. A change in the central administration of services was also questioned. In 1971, responsibilities for all children in care, including

young offenders in care, passed from the Home Office to the newly established Department of Health and Social Security, itself an amalgamation of two departments. Some critics expressed concern that the DHSS seemed to have a much weaker 'law and order' agenda than the Home Office. Similarly, in local authorities, child care became the responsibility of the newly formed social services departments that were introduced in 1971 following the recommendation of the 1968 Seebohm Report. These departments had a huge brief that included responsibility not only for children but also for the elderly and disabled.

44. The prevailing research interest in the late 1960s and early 1970s was on the effects of different residential regimes and a belief that results would vary for each type. But follow-up studies of re-offending rates among young offenders found more similarities than differences and concluded that most of the anti-social behaviour could be explained by other background variables. Until then, the Home Office had encouraged some experimental approaches, one of which was the 'short, sharp, shock' (a term borrowed from *The Mikado*) provided by detention centres and another the setting up of therapeutic communities, inspired by the Henderson Hospital model, at two former approved schools, Peper Harow and the Cotswold Community. These were transformed into something quite different from the old approved schools. The community of boys (they were both single-sex) and staff was seen as an essential part of the 'treatment'. Priority was given to communal meetings, where an individual's behaviour was discussed by the whole group, and to customised therapy for each individual. The provision was marked by a relaxed regime, supportive staff-pupil relations, good food, comfortable furnishing and opportunities to pursue personal interests, especially the arts^{xiv}. But the history of these initiatives is typical of much child care: they had a belief based on a sensible theory but adopted a somewhat superior stance to the rest of the system and eschewed proper evaluation, preferring to rely on qualitative case studies. Sadly, lack of evidence to justify their high fees meant that they have struggled to survive economic downturns and reductions in local authority funding. However, a few establishments, such as the Caldecott Community and The Mulberry Bush continue to offer a specialist service for severely harmed children.
45. Further politicisation occurred in the mid to late 1970s with regard to race and ethnicity. It began in the approved schools that ran regimes based on a white working class culture in a context of full employment; that meant that boys did not swear in front of women, got up punctually for work, paid their mothers for their keep etc. In the late 1960s, schools serving the London and Birmingham regions began to admit large numbers of older African-Caribbean youths brought up by grandparents in the West Indies before joining their parents in England. Their demands and behaviour challenged the old order. For example, some wanted to retain their Rasta hairstyles and had different values and cultural expressions with regard to such things as punctuality and ways of showing respect to officials. All this began to challenge the fundamental values of the regimes. Indeed, the issue of cultural tolerance was to explode later in the decade when black social workers and birth families began to demand same race placements in foster care and adoption.

Nevertheless, it took a long time for the issues of ethnicity to be addressed; for example information about the ethnic backgrounds of looked-after children was not collected by the Department of Health until 2001.

46. These tensions were not restricted to child care. In society generally the 1970s saw growing inter-generational differences and declining religious observance, with compulsory church attendance removed as a requirement from the regulations governing foster and residential care. In residential care, it led to less emphasis on reform and re-socialisation to a moral ideal and more to an orientation to areas in which the outcomes have immediate practical use, such as educational achievement, social skills and coping strategies in terms of finding work and accommodation. As one Scottish List D school head said at the national conference in 1972, “With two million unemployed, I’m not worried that my boys can’t play the flute”. Proselytisation and reformist zeal had been significant in the past but were swept away by the force and speed of these social changes. Even the British public schools had to refine their long-standing belief in the merits of muscular Christianity.
47. The history of the approved schools provides a good example of a sea change in the influences on policy and practice. There was a concern about rising costs and a generally anti-institutional ethos across the developed world and for the first time the adverse effects of institutionalisation (institutional neurosis) were being charted. This had been suspected by the Curtis Committee who noted that many of the children in the places they visited were ‘touch hungry’ and ‘desperate for attention’. In 1961, Erving Goffman wrote a provocative book on US mental health hospital care that described in broad terms the symptom of institutionalisation but these were categorised by the English psychiatrist Russell Barton into a recognisable clinical condition^{xv}. He charted the defects and disabilities in social skills shown by people who had spent a long time in institutions cut off from the outside world, such as mental hospitals and prisons, and later extended to the armed forces, staff in boarding schools and religious orders. Such people are unable to exert independence and responsibility to the extent that they cannot cope with life outside the institution, even with simple things like cooking, laundry and self-care, let alone more complex aspects of life such living independently or establishing and maintaining relationships.
48. In addition, specific studies were conducted to a high scientific level (i.e. randomised controlled trials). One that was especially influential was the Home Office Research Unit’s report, *Residential Treatment and its Effects on Juvenile Delinquency*^{xvi}. The research randomly allocated boys to two contrasting regimes at Kingswood Approved School in Bristol, one a therapeutic community and the other a traditional training programme. It found similar rates of re-offending for both groups. In 1978/9, the Government thus agreed a policy shift and huge resources were devoted to community alternatives for young offenders called ‘intermediate treatment’. It was inspired by the closing of all reform institutions for juveniles in Massachusetts, although the British version sometimes included a short residential experience as part of the programme.

49. Alternatives to residential care also developed for other groups, such as people with disabilities who were able to live at home and attend day centres. Family centres also opened across the country, often run by voluntary associations. There were two main types^{xvii}: those to which children at risk of harm were referred for the purpose of family support, safeguarding and administering access arrangements, and those that offered a range of facilities to every family in the local community – open all hours, everyone welcome. There was no reliable research to evaluate the effects of either type of provision and as they are a targeted service in terms of clients and location, have been easy candidates for cuts and have opened and closed with considerable frequency. There has also been a lively debate between the ‘helping families in a non-stigmatising way’ argument versus one that raises fears about the dangers of ‘congregating people with problems’.
50. But interestingly the application of psychological research did not always lead to positive change, as is illustrated by the history of residential observation and assessment centres. The Curtis Committee (1946) had endorsed the idea of providing reception centres for children coming into care, seeing them as the corner stone of the new service, and supported the prevailing psychological perspective that emphasised the benefits of a multi-disciplinary assessment to inform future plans. Reception centres were thus seen as a keystone of new provision as they could help children settle, assess their needs and move them on to somewhere suitable. But as more difficult adolescents, some of whom who would previously have been accommodated in remand homes, began to enter care following the changes introduced by the 1969 *Children and Young Persons Act* (implemented in 1971), a new set of establishments was needed and observation and assessment centres were opened across the country. These offered a six to eight week assessment leading to a placement decision. But criticisms of this arrangement soon arose: the setting was too artificial for an accurate assessment, it introduced an unnecessary placement change, eight weeks out of school destroyed children’s education and, most devastating of all, nearly all of the final placement decisions could have been predicted on entry. Also, what was recommended could not always be realised. So, no sooner had these centres been established – they accommodated 5,300 children at their peak in the early 1980s – than they began to be run down (only 700 residents in 1995) and by 1998 had actually disappeared as a placement category in the government’s annual child care statistics. A parallel decline also occurred in the old approved schools where between 1978 and 1990, three quarters of the 100 or so schools closed.

Year	UK	Jersey
1963	<p>Children and Young Persons Act 1963</p> <p>Allowed expenditure to prevent admissions to care</p> <p>Parents no loner able to bring a child to court as beyond control</p>	

	Age of criminal responsibility raised to 10	
1964		
1965	Boarding-out of Children (Amendment) Regulations 1955	Adoption (Jersey) Law Deals with adoption orders made outside Jersey
1966		
1967		
1968	Seebohm Report Integration of children's services into social services departments Social Work Scotland Act Set up the panel system	

1969-89

The 1969 Children and Young Persons Act

51. These recommendations for change were incorporated into the 1969 *Children and Young Persons Act* which was fully implemented by the mid-1970s. Apart from bringing more young offenders into the care system, it distinguished between voluntary care, where parents agree to a child being taken into care, the assumption of parental rights by the local authority and replaced 'fit person' orders with care orders by which a court makes the decision to transfer parental rights to a local authority. The Act also redefined the grounds for making care orders - abuse and neglect (actual or likely), moral danger, beyond control, truancy, offending and matrimonial family problems.
52. The important point for practice in England and Wales was that it changed the way decisions were made about young offenders who previously would have been given an approved school order. It extended to them the arrangement of making care orders and a specific 7(7) order was introduced, so handing responsibility for care placement decisions from courts to professionals. As mentioned earlier, this was not so in Scotland where panels retained that power.
53. The inclusion in the care system of a large group of young offenders not only led to a huge increase in the numbers in care (the in-care population in England rose to nearly 100,000 in 1977), but also altered the age distribution (over 50% of admissions were over secondary school age). It thus made demands on expensive resources. But despite this initial pressure, the care system coped and things eased as the young offender cohort aged-out of the system. Thereafter, all types of residential care began to decline across the country once alternatives had been established. Warwickshire was amongst the first to announce the closure of all its facilities in the mid-1990s, although

there was a suggestion that its use of special boarding schools increased as a result^{xviii}.

54. The 1969 Act also set off an important ideological debate about how to deal with offenders. In making such children subject to a care order, the link between the nature and severity of their crime and what happened to them was broken. This had long been an ambition of the Labour Party and was the recommendation of the influential report of 1964, *Crime: A Challenge to us All*, prepared by Lord Longford written when the Party was in opposition. It reflected a view that the causes of crime were largely social structural rather than due to offenders' weakness of character and that the old system of dealing with them was stigmatising and counter productive.
55. But lawyers are rarely inactive and concerns soon arose about the new perspective on youth offending and court disposals, especially committal to care. While few denied the importance of deprivation and poor self-esteem in explaining delinquency, the ethical problem was that for the same offence, a very deprived child might stay in care for a long period, whereas one from a good home might return home quickly or even not be separated at all. The Justice for Children movement highlighted this inconsistency vociferously during the 1980s^{xix} and in 2003 the Labour Government reinstated the old system and directed young offenders down a different route, namely to the newly established Youth Justice Board. This introduced a more overt tariff system based on the nature of the offence and restricted the range of details in the young person's background that should be considered by the court before passing sentence. The new Board also took over the employment of probation officers who had worked with juveniles as well as the running of former prison department facilities for young people and the secure child care units that had been run by local authorities. They combined all this provision into what became called the 'secure estate'.

The 1975 Children Act and rising concerns about child protection

56. Two other concerns bubbled away underneath the furore about offenders. The first focused on children who stayed in care for long periods or who had no hope of returning home. An influential study published in 1973 by Rowe and Lambert, *Children who Wait*^{xx}, identified a group of children who lingered in care without plans being made for a stable family placement. Thus, the concept of 'drift' entered the child care vocabulary and adoption was seen as an option for these children; but the process for this was complex and slow. The 1975 Act aimed to eliminate 'drift' and simplify the process of finding the children long-term families by speeding up the process, 'freeing' children for adoption before a family had been found and widening the activities on which money could be spent. It was influenced by the concept of 'permanence' developed by Tony Maluccio and others in the US^{xxi}. It was also inspired by the pioneering work of reformers such as Jane Rowe and Nancy Hazel who showed that children previously considered 'unfosterable' – adolescents, disabled, behaviourally difficult, black children and groups of siblings - could be found permanent families if sufficient effort were made. This legislation is significant in that it reduced the ability of parents to block adoptions and thus

represents a shift from parental rights to the rights of the child. Although little used by foster parents, the provision for custodianship – not introduced until 10 years after the parent Act – offered another option for ‘hard to place’ children.

57. The second concern was about the protection of children at risk of harm. Just as the Dennis O’Neill scandal arose during discussions about changes to policy, in 1974 the child care system in the UK was rocked by the death of a young girl, Maria Colwell, at the hands of her mother’s violent partner^{xxii}, especially as she had been returned from care to live with her mother after the court had discharged the care order. Up until then, people were aware of the effects of abuse and neglect and did what they could to prevent it, but knowledge was scant and a general rule of optimism prevailed. In addition, in the 1940s and 1950s the term ‘child protection’ referred specifically to the supervision of children in private foster homes.
58. A public inquiry was held into the death of Maria Coldwell. The report was critical of the lack of coordination between different health and welfare agencies. It recommended establishing formalised inter-agency systems for dealing with child abuse. This recommendation was implemented across the UK.
59. The wider context was also different from today. Up to the 1960s, children were smacked at home and beaten at school, violence to women went unattended, although it was never socially approved, and sexual assaults often went unrecorded, let alone uninvestigated. But although there was a history of expressed concern and legislation about abuse, whether in families or in the care system, there was no clear process to investigate it and thus responses were unpredictable. The NSPCC was the most active voluntary organisation but there was no equivalent to the Child Safeguarding Boards that operate today.
60. There were dozens of inquiries in the nineteenth and twentieth centuries into abuse in residential care. The problem was that these never achieved publicity in a way they would today, and although the reports exist, they are often closed under the 100-year rule because they name children. Hence, it is unclear whether the revelations from the 1970s indicate an increase in the amount of abuse or changes in responding to it, especially the role of the media and investigative journalism. Nevertheless, the Maria Colwell case highlighted questions still being debated today. How long should known abuse and neglect be allowed to continue? What is the threshold for removing a child? What if the mother and child love each other but another family member is the abuser? It also set off a process of holding public inquiries that now attract considerable media attention.
61. New knowledge about the effects of abuse and neglect was also emerging and an influential concept from the US in the mid-1970s was the ‘battered baby syndrome’ which alerted people, including medical staff, to domestic violence as a possible cause of injuries^{xxiii}. There was also at this time concern about

‘battered wives’ but it was some years before older children and issues such as emotional abuse and neglect attracted attention.

62. Since then, as will be explained, knowledge, tolerance and practice of child abuse have changed radically and child protection has risen to dominate current thinking, policy and practice^{xxiv}.
63. When a comparison is made with the situation in Jersey, it can be seen that there are parallels with the regard to the 1969 Acts but not the 1975 Act.

Year	UK	Jersey
1969	<p>Children and Young Persons Act 1969</p> <p>Repeal of 1933 Children and Young Persons Act Amalgamation of children’s departments into wider social services departments New criteria for making care orders in place of approved school and fit person orders Professional discretion over placement of offenders (not Scotland) Young offenders brought into care system Closure of approved schools and integration into residential provision Opening of O and A centres Children’s Committee oversees service and does not make decisions on cases Creation of community homes with education on the premises</p> <p>The Castle Priory Report: Residential Task in Child Care</p> <p>Discusses the training needs of staff and optimal staff:child ratios</p>	<p>Children (Jersey) Law 1969</p> <p>Repealed 1933 Children and Young Persons Act Employment Safeguarding from moral and physical danger Safeguarding powers of the Royal Court Protection of children in judicial proceedings for offending Powers to deal with serious offenders Protection of children in family proceedings Protection of foster children Nurseries and child minders The conduct and inspection of voluntary homes Duty of committee to assume the care of certain groups of children Role and duty of the Treatment of Children in Care Committee Contributions toward maintenance</p> <p><i>(Article 9(5) seems to permit corporal punishment Article 24 is first mention of fit person order and Article 28 of supervision</i></p>

		<p><i>order</i></p> <p><i>Article 80 on voluntary homes – which voluntary organisations were/are active in Jersey?)</i></p> <p>Children’s Benefits Funds Law 1969</p> <p><i>(In the UK, no special fund was allocated, it was up to the local authorities to fund services from domestic rates and rate support grants, but there were occasional payments ultra vires)</i></p>
1970	<p>Local Authority (Social Services) Act 1970</p> <p>Establishment of social service committees Creation of directors of social services</p>	<p>Children Boarding-out Order</p> <p>Recruitment of carers and management of placements</p> <p><i>(Article 8, visits to foster homes from ‘time to time’; in the UK intervals are specified)</i></p>
1971	<p>Children and Young Persons (Definition of Independent Visitors) Regulations 1971</p>	
1972	<p>Community Homes Regulations 1972</p> <p>Creation of community homes with education in place of approved schools</p>	<p>Children (Amendment) Law</p> <p>Removal of power to send a child to an approved school</p>
1973		
1974		<p>Children (amendment no.2) Law</p> <p>Creates juvenile appeal court</p>
1975	<p>Children Act 1975</p>	

	Facilitating family placements and adoption for children Shift from parental rights to rights of the child	
1976	Adoption Act 1976	
1977		
1978		
1979		Children (amendment no.3) Law Replaces 'detention centre' with 'young offenders centre' Raises age of entry to 21 Replaces approved school order with 'place of safety' Abolishes prison for under 18s
1980	Child Care Act 1980 Largely consolidating but tightened regulations on private fostering Foster Children Act 1980	Inspection by Social Services Inspectors from England. Ninety-nine recommendations made for improvement in: General policy Premises Workload Staff roles Monitoring and case reviews Fostering Adoption Child Abuse Day care for under 5s School attendance Juvenile delinquency Residential provision Haut de la Garenne Staff development
1981		
1982	Boarding-out of Children (Amendment Regulations) 1982	
1983		
1984	Short Report on Children in Care	

	<p>Highlighted domestic violence as a risk of harm to children</p> <p>Recommended reorganisation of social work services into a national social services inspectorate</p>	
1985	<p>Publication of Social Work decisions in Child Care</p> <p>First of a series of ‘Messages from Research’ overviews based on a government funded research programme (Series has continued to 2013) Topics covered have included: Child placement Residential care Adoption, Child protection, Supporting parents</p>	
1986		
1987		
1988	<p>Boarding-out of Children (Foster Placement) Regulations 1988</p>	

1989-present day

The 1989 Children Act

64. With all these balls in the air and the growing amount of inspections and research revealing fragmented services, unsatisfactory performance and poor outcomes, there was a need for a radical rethink about how legislation could satisfy all these demands. The solution came in England with the 1989 *Children Act*.
65. It is impossible to describe this radical and comprehensive law in detail but some salient points will be offered. Initially, it followed reviews by several important bodies, such as a Parliamentary Committee (Short Report)), the Law Commission and the Department of Health’s own *Review of Child Care Law* and energy of individuals such as lawyer Brenda Hale and civil servant Rupert Hughes. It also took notice of the considerable amount of research that had become available in the 1980s and was seen as highly ‘research informed’. This knowledge was not just confined to informing the Act, but was expanded in the volumes of guidance that accompany it; these are almost text books in their own right. This means that the Act cannot be read in isolation.
66. The 1989 Act was a mixture of consolidation and radical reform. In terms of consolidation, it integrated public and private law and brought day care into

line with other services, even though the Act is not usually seen as consolidating legislation.

67. In terms of radical changes, however, the impact is more obvious. It abolished the plethora of conditions to take action and in their place set several underlying general principles: the child's welfare must be paramount (a forceful word that had been hinted at but not used before in legislation), children were to be perceived as 'being in need' in the sense that their health and development would be impaired if no services were offered, the criteria for judging this should be the risk of harm or significant harm (a checklist to assess this was published), action should not be taken unless it could be shown to improve the child's situation (the least detrimental alternative), children's race, religion, language and culture should be respected and the child's voice should be heard at all times, with assistance from a sympathetic adult if necessary.
68. Philosophically, the change was important too. Although the final vestiges of the Poor Law had long since disappeared from child care, the 1989 Act finally sealed its coffin by combining private and public law, thus providing an approach to serve all children on the basis of their needs. Similarly, the Poor Law had been funded by local taxes and parishes had been eager to minimise costs and avoid taking on cases from elsewhere by constructing eligibility criteria and barriers to obtaining a service. Again, although this issue was not a significant deterrent to practice, the new Act emphasised that children should get what they need, as they would in the NHS in a manner unfettered by financial and administrative complications. It is important to note, however, that while one fundamental principle of the Poor Law - the principle of less eligibility whereby those benefitting from public services should not be better off or more comfortable than other people outside - was no longer important in child care, it continues to be a contentious matter in social security with arguments about whether financial benefits should be allowed to exceed income from employment.
69. The 1989 Act also dropped the use of pejorative terms, such as 'in care' and 'handicap', introducing less stigmatising ones, such as 'looked-after' and 'disability'. In combining private and public law, it emphasised that any child can be 'in need', not just those from poor families, and that both would be dealt with in the same way. It also abolished the ability of local authorities to assume parental rights and responsibilities by administrative fiat, that is without recourse to a court, a power that had existed for 100 years. Finally, it attempted to answer two criticisms of the earlier care system made by Jean Packman, John Triseliotis^{xxv} and other researchers, namely that it was too much of an 'all or nothing' service and more was needed in-between, and that for children and families it was a punitive experience that deterred people from seeking help and de-skilled those who did.
70. Some of the details based on these principles are important. Courts could now make orders from a range of options, not just care orders but assessment, contact, residence and prohibited steps orders. Some of these obviously limited professional choice, but apart from those, any selection was possible

from a spectrum of services, depending on the needs of the child, thus achieving the best match between needs and services. However, this did not mean that social workers had a completely free hand as there are always questions of cost and availability. So, as with so much previous child care legislation, the new arrangement was more about setting a tone and emphasising a perspective than offering something radically different. In addition, it is important to note that care orders did not open the door to specific services, they merely allowed professionals to act in the child's interests. In contradiction to a popular misconception, it did not institute a separate child protection 'service'. Neither did care orders completely remove parental rights, so retaining some element of shared care. In the past, child care officers had considerable discretion, even if they were not officially given it – so the significant point about the 1989 Act is that it recognised this discretion as important and enhanced it.

Legislation in Jersey

71. So to move to Jersey legislation, it can be seen that thirteen years after the UK reforms, there was a shift from the 1933 Law, which focused mostly on offenders, to the more comprehensive *Children (Jersey) Law 2002* in terms of the range of children it covers and the scope of its remit.
72. Much of it echoes the 1989 Act in England; for instance in Article 2(1) 'the child's welfare shall be the court's paramount consideration'. There is also a specification in Article 2(2) to reduce delay, and in 2(3) to take account of the child's wishes, to adopt a broad needs perspective, to note any risk of harm and to look at all options and their likely effects, to seek the least detrimental alternative and to assess any strengths in the child's extended family.
73. Further detail in Article 3 of the Jersey legislation defines who can have parental responsibility, given the diversity of contemporary family structures, and Article 7 ensures the child's right to have a guardian nominated. Article 16 allows for family assistance. In addition, the orders available to the court (Article 10(1): residence, contact, specific issue and assessment (Article 36), are again similar to those in the UK.
74. In Part 3, however, there is something unique to Jersey where the role and responsibilities of the Minister and, before 2002 the Education Committee that held responsibility for child care, are elaborated. Both have been and are seen as the providers of services and have responsibilities to oversee the child's situation. Without knowing the Jersey system (and Jersey is a small authority so presumably a small group of professionals know one another and have opportunities to reach decisions informally), it seems that the Committee system was a continuation of the 1948 Act arrangements in England and Wales where the local authority children's committee had to sanction key decisions, such as assuming parental rights. The original Article 24, for example, says 'the Court on the application of the Committee may make a care order placing the child...in the care of the Committee' but since has become the 'care of the Minister'. Arrangements for decisions on individual cases were abolished in England and Wales in 1969 and social services (now

children's services) committees merely oversee the whole service rather than approve specific decisions about children, although since 2000, Governments have encouraged elected members to be more closely involved in services and have requested that a specific councillor be nominated to do this, as was original the expectation of the chair of children's committees.

75. The 2002 Law also deals with specific issues, for instance Article 22 on secure provision, contact between child and birth family (Article 27), applications to discharge orders (Article 33), emergency protection (Articles 37-43) and abductions (Articles 44 and 45). It also requires registration and oversight of voluntary homes (Article 54) and management of private fostering arrangements (Article 58). Court procedures are covered in Articles 67-76), although there appears to be no provision for the appointment of a guardian ad litem. Financial arrangements are dealt with in Schedule 1.
76. Although the Jersey legislation is underpinned by the overarching welfare principle, some of the detail is different from the 1989 Act in the UK. There appears, for instance, to be less emphasis on the requirement to fashion a multi-disciplinary approach. The Jersey legislation is also less clear about what exercising parental responsibility actually involves and there appears to be less concern about promoting the welfare of children not in care, for example by providing day care for the under fives. The categories of residential home that have to register are more restricted than in the UK and the arrangements for reviewing children's progress more flexible. It may be that extensive detail is deemed unnecessary given Jersey's small size, but the result is that some of the Articles come over to the outside reader as a bit more vague than their 1989 UK equivalents. It means that, in theory, there could be discrepancies between different Articles, such as when there is no one officially appointed to help the child through the court process; but the reality is that given the size and compactness of the island, this may be someone in the same office. This makes it difficult for an outsider to know what actually happens in practice.
77. With regard to the actual services that children experience, two sets of regulations seem especially apposite. The *Children's Homes Regulations* of 2001 (passed in England) emphasise the welfare principle and standards of care, protection from abuse and a duty to promote education but most of the text is devoted to the internal running of the establishment. Only Section 12 on the care plan discusses the links with other family services, expectations for the child's future and liaison with other professionals. Again, the local context might make it unnecessary to specify more detail but the result of this is that the ethos of the regulations comes over as somewhat institutional rather than as seeing residential care as a positive intervention within a comprehensive service.
78. The Jersey *Child Placement Regulations 2005* cover the procedures for selecting a placement for a looked-after child. They, again, emphasise the welfare principle and specify features that should make the placement a success. But, as before, while there is some provision for supporting foster carers, there is little on the positive contribution they might be able to make to

the child's life. In the text they come over as relegated to a tending role rather than as trained and supported front line agents.

79. Some of these impressions were picked up in the inspection report of 2012 prepared by the Care Inspectorate, the successors to the Social Work Inspection Agency. The Care Inspectorate found an auspicious context with 'committed and skilled front-line staff' who 'worked well together'. But there were criticisms that some residential and foster carers were undervalued and not involved in discussions about children. Some children also felt ignored when they expressed a view or complained. The lack of performance measures was also noted with consequent doubts about the arrangements for system management and quality control. This is in contrast to England where there are now regular surveys of children in need, comparisons across local authorities of outcomes for looked-after children regarding such things as educational attainments, emotional and behavioural difficulties, physical and mental health, substance abuse and offending.
80. A follow-up inspection by the Care Inspectorate in September 2013 found that many improvements had been made regarding the 14 earlier recommendations. In seven cases, there had been major changes for the better and in two others good progress had been made. In five other cases, however, the situation still needed attention. The good points were the new structure and sense of purpose and direction it gave staff, better service planning centred around six outcomes for young people, the incorporation of diverse recommendations into a single strategic plan, better corporate plans to ensure child protection, listening to the views of children, efforts to improve the confidence and status of residential staff and better arrangements for out-of-hours contact.
81. In two other cases, things were improving but with more work needed. These areas were: developing a comprehensive commissioning strategy and gathering basic information on children's backgrounds and progress.
82. Five areas were still causing concern. There was still insufficient evidence about the impact of services and how well they were meeting targets and aspirations. An effective performance management system, although in embryo, had yet to be implemented. Although complaints from children and other users were heard, they were still not addressed and incorporated into planning. There was a marked absence of any vision for residential care and manuals of procedures to help staff work effectively were not available.
83. Another review, this time of services for children and young people with complex and additional needs, was undertaken by the charity Action for Children, recommended more inter-agency cooperation, the development of prevention and early intervention services, attempts to set joint working practices and objectives, reorganising the relevant social work teams, promoting a personalised approach and reviewing legislation and guidance. It also echoed the earlier inspectors by suggesting better ways of listening to users, collecting appropriate information and developing new services, such as early family support and short-breaks care.

84. The Jersey Children's Policy Group has been attempting to incorporate the recommendations from all these reports into an overall service improvement strategy. They have reviewed the progress made with regard to 60 recommendations and produced action plans accordingly.
85. As the 1989 Act in England and the 2002 Law in Jersey and the accompanying rules and regulations cover such a wide area (although they say little on juvenile justice, family courts or adoption) and try to reconcile the contradictions that have been discussed, it is inevitable and correct that there has been continuous debate about the strengths and weaknesses of the approach. However, when the detail of the 1989 Act in England has been intensively scrutinised, such as in the two reports on the quality of child protection services by Lord Laming, the special edition of the journal *Children's Services*, the overviews of children's serious case reviews produced by the Department of Education and the recent Munro Report on child protection, the fundamentals of the Act have been judged sound^{xxvi}. This does not mean, however, that the care system is perfect as illustrated in criticisms by Michael Little that the system is still unethical with regard to consent, rights and scientific authority and that what is actually offered is often at odds with the needs of children and families^{xxvii}.

The significance paid to child protection in England

86. Most of the controversies since the mid-1980s have concerned child protection and whether legislation is too sympathetic to dysfunctional parents or action is delayed for too long. The various inquiries illustrate this: those analysing the circumstance leading to the deaths of Victoria Climbié and Peter Connelly criticise professionals for failing to respond to clear indicators of abuse, whereas the Orkney and Cleveland reports criticise them for acting too precipitately^{xxviii}.
87. As child abuse can be identified by a number of different services, such as health, social services and education, and individuals, in 1995 the Government issued guidance, *Working Together*^{xxix}, to strengthen inter-agency cooperation. Because of separate agency budgets, domains and restrictive practices, the failure to collaborate had long confounded effective practice. At the same time, the Government launched a refocusing strategy to address the problem of achieving better integration between child protection and family social work. Research studies had shown that the vast majority of referrals for abuse and neglect did not lead to the removal of the child but to the provision of help via family support. It was felt that this should not be lost because of the influence of a few extreme cases. *Child Protection: Messages from Research*^{xxx} was an important publication in this respect.
88. While no-one wishes children to be harmed, there were several sub-agendas in this policy shift. First, child protection has given social workers a clear role and status; this should not be underestimated as in 1981 an influential book had asked *Can Social Work Survive?*^{xxxi} Second, the policy in England and Wales seems to have been driven more by developments in the US than those

in Europe where child protection practice is rather different (in Scotland more Scandinavian influence is detectable). The researcher Matt Stagner^{xxxii} has explained that in the US, the protection of an individual's rights is enshrined in the Constitution and there is a more individualistic social ethos.

The New Labour Government of 1997

89. Labour's convincing election victory in 1997 heralded an extensive welfare programme but, perhaps surprisingly, with regard to children in care, it tended to accept the existing system set up by the 1989 Act but tried to make it work better. Thus, in England there was legislation in 2000 to increase the support of care leavers up to the age of 21, in 2002 to revise the arrangements for adoption, in 2008 to improve the availability of accommodation for looked-after children and to ensure that health and education were considered in reviews, and in 2010 to encourage even stronger approach to their education.
90. In Scotland, the most recent legislation, *Children and Young People Act (Scotland)* 2014, strengthens after-care and introduces arrangements for continuing care. The new Labour government did, however, introduce some high profile changes to ram home its intentions. One of the first areas to be affected was adoption and the Prime Minister gave his personal commitment to speeding up the process and reducing restrictions on applicants. This has continued with the number of adoptions from care in England rising from 1,600 in 1978 to 3,980 in 2014, and with groups previously excluded, such as gay and lesbian and single parent adopters, now eligible. A second was the transfer in 2007 of responsibility from the Department of Health to the newly titled Department for Children, Schools and Families. This integration with education also occurred at the local level with the incorporation of the sectors of social services departments concerned with young people and families into larger children's services departments which included education and which are often managed by someone from an educational rather than a social work background. The staffing of these department is now dominated numerically by teachers and classroom assistants with, in a typical local authority with a population of one million, social workers forming only 4% of a workforce of 15,000 directly involved with children.
91. In addition to revised legislation and guidance, several publications on looked-after children, such as *Care Matters* in England in 2006, *Children First* in Wales and *Getting it Right for Every Child in Kinship and Foster Care* in Scotland^{xxxiii}, reinforced the earlier messages about the welfare of each child being paramount and to carry on doing more of the same, but to do it well. One method specified in the England document was family group conferences which received approval in *Care Matters* despite a lack of evidence to show their effectiveness, again illustrating the uneasy combination of belief and science that has marked this field for so long.
92. Labour's commitment to children was considerable but its most radical innovations tended to cover broad areas, such as the welfare of all children, as manifest in the publication *Every Child Matters*^{xxxiv}, the reduction and eventual elimination of child poverty, early years prevention (the creation of

SureStart^{xxxv}), pre-school education, better school facilities, modifications to school curricula and investment in health and leisure, all supported by other changes, such as higher financial benefits, a minimum wage and better child care supports for working parents as part of its Welfare to Work programme.

93. Children in care benefitted from improved chances of having a better time while there in terms of experiencing choice, protection from abuse, an allocated professional and easy access to outside help, such as Childline, as well as from extra money to assist with their education and life after leaving care. To encourage this, the Government set cross-agency standards. One of these was the Assessment Framework^{xxxvi} designed to help different professionals chart the needs of children and families using an ‘ecological’ model. It also issued extensive and detailed guidance on almost every aspect of the work and instituted an integrated system of recording children’s needs and experiences to be used by all agencies. Unfortunately, this bureaucracy proved so overwhelming that it produced a counter reaction from professionals who felt that the excessive control over activities and the demand for paperwork was displacing direct work with children and families^{xxxvii}. Social work was being reduced to a dehumanised tick-box approach – in great contrast to the early child care officers in the 1940s and 50s who had considerable professional discretion, did what they felt right and kept scant notes. But the Government argued that the new system was necessary because cases were now so complicated and the threat of litigation so real, it was necessary to ensure that when making decisions, all factors known from research to be possibly significant were considered in a consistent way and that decisions and reviews would reflect this.
94. Paradoxically, increasing central control was accompanied during this period by a rise in the number of independent (i.e. for profit) and voluntary providers. For example, in England in 2013 there were 407 private and voluntary children’s homes and 229 independent fostering agencies which when added to provision in the 152 local authorities, means that there were 788 agencies involved in the care of looked-after children, challenging the quest for better coordination. In some local authorities, over half of foster placements and nearly all residential ones are purchased from outside commercial companies, indeed the rates for the whole of England are 36% of all foster placements - excluding those with relatives and friends - and 72% of all registered places in residential settings. When this change is coupled with the growth of academies and free schools in education, the changes have seriously weakened the ability of local authorities to influence what goes on within their areas. In the past, the voluntary sector was always more freewheeling and difficult to control and until the 1930s there was no automatic registration and inspection, and what control there was came via grants from central or local government. Although there is now more oversight, it remains difficult to impose national policies on the independent sector or even to know what is happening - witness the different amount of statistics available about the public sector compared with the private.
95. It has almost passed unnoticed that in 2013, Part I of the *Children and Young Persons Act 2008* was commenced that allowed local authorities in England to

delegate service functions for looked-after children to a third party provider, and that there had already been pilots, such as Virgin Care in Devon. But now, via these new regulations, the government wishes to extend this to all children’s services.

96. The results of all these changes are still being assessed. Some have clearly been beneficial but others less so. For example, many respected and innovative organisations, especially community facilities and therapeutic residential centres, have been curtailed or closed down after the financial crisis of 2008 and there was a large increase in admissions of older adolescents (under 18s) to young offenders institutions around the turn of the century, although, remarkably, this has dropped by two-thirds in the last four years, emphasising the dangers of drawing conclusions from short-term comparisons.

The situation since the election of the 2010 Coalition Government

97. Although not hostile to children’s services, the Coalition government since 2010 has generally let things carry on with the focus mainly on education and schools. There has been one symbolic change in England: the speedy dropping of Children, Schools and Families from the name of the responsible Government department, which is now just the Department for Education. There has also been a specific policy to increase further the number of adoptions from care and make the process quicker and simpler and reports on child protection services and prevention strategies were commissioned from Eileen Munro and Graham Allen respectively^{xxxviii}. Otherwise local authorities have been left very much alone in terms of policy and practice, except in those places where the Government’s inspection arm, OFSTED, has found poor standards. There have also been some interesting innovations, such as the creation of ‘virtual heads’ and transferrable funding to improve the education of children in care. But, it is generally fair to say that there has been no dramatic shift in ideology about what is done, in contrast to ideas about how it is done, and the Government has shown little interest in commissioning radical research. But what has hugely affected local authorities is the large reduction in central Government funding. As a result, many services for children and families have been withdrawn and plans have been abandoned. There were 3,632 SureStart centres in England in 2010 but only 3,116 now, a fall of 14%. More significant, and in contrast to former years, costs and ‘value for money’ have become a central issue when making decisions such as choosing an out-of-area placement in a residential school or secure unit.

YEAR	UK	JERSEY
1989	<p>Children Act 1989 (in force 1991)</p> <p>Published guidance provided Clear principles: Child’s welfare paramount Match needs to services</p> <p>New concepts:</p>	

	<p>Children in need Significant harm Least detrimental alternative Respect race, religion and culture Child's voice to be heard Spectrum of services</p> <p>New terms: Looked-after children Disabled</p> <p>Administration: Combined private and public family law Reduced barriers to services Parental rights via court New range of court orders Professional discretion after court order made</p> <p>The Care of Children: Principles and Practice in Regulations and Guidance</p> <p>The Utting Report on Residential Care</p> <p>Report on removal of children from families in Orkney</p>	
1990	Community Homes (Control and Discipline) Regulations 1990	
1991	<p>The Children's Homes Regulations 1991</p> <p>The Arrangement for Placement of Children (General Regulations) 1991</p> <p>The Foster Placement (Children) Regulations 1991</p> <p>The Placement of Children with Parents Regulations 1991</p> <p>The Contact with Children Regulations 1991</p> <p>The Review of Children's Cases</p>	

	Regulations 1991	
1992	<p>The Warner Report: Choosing with Care</p> <p>Report of a Committee of Inquiry in to the selection, development and management of staff in children's homes</p>	
1993		
1994		Protection of Children (Jersey) Law
1995	<p>Major revision of Working Together in Child Protection</p> <p>Publication of Child Protection: Messages from Research</p>	<p>Children's Order, Northern Ireland</p> <p>Introduced changes similar to the 1989 Children Act in England</p> <p>Transfer of Functions (Health and Social Services) Act</p> <p>Functions of Education Committee under Adoption Act 1961 and Children Jersey Law 1969 transferred to Health and Social services Committee but Education Committee retain some functions of the 1969 Act</p> <p>Residential Homes (general provisions) Jersey Order</p> <p>Specifies conduct of homes</p>
1996		
1997	<p>People Like Us</p> <p>Review of safeguards in residential care</p>	
1998	Publication of Quality Protects	
1999		<p>Age of Majority (Jersey) Law</p> <p>Reduces age of majority from 21 to 18</p> <p>Power to assist young persons previously in care</p>

2000	<p>Assessment framework published</p> <p>Legislation to increase support of care leavers to 21</p>	
2001	<p>Responsibility for young offenders moved to Youth Justice Board</p> <p>Children's Homes Regulations 2001</p> <p>Welfare brief Appointment of managers Recruitment of staff Ensure education and health Safeguarding policy Respects privacy Respects culture and religion Need for a plan Contact arrangement Permitted controls Complaints procedure Record system Fitness of premises</p>	
2002	<p>Adoption and Children Act</p>	<p>Children (Jersey) Law 2002</p> <p>Repeals Children (Jersey) Law 1969</p> <p>Principles: Child's welfare paramount Child's wishes heard Needs-led services Least detrimental alternative All options considered</p> <p>Redefines who can have parental responsibility Redefines roles of the Minister and Committee Revised arrangements for secure accommodation, family contact, emergency protection and abduction.</p> <p>Registration and oversight of voluntary homes and management of private fostering arrangements</p>
2003	<p>Appointment of a Children's</p>	

	<p>Commissioner Followed the recommendation in the abuse inquiry in North Wales for an independent ombudsman-type official</p> <p>Publication of Every Child Matters</p> <p>Report on death of Victoria Climbié</p>	
2004		<p>Protection of Children (Amendment No. 3) (Jersey) Law 2004</p>
2005		<p>Children Rules 2005</p> <p>Children (Contact in care (Jersey) Regulations 2005</p> <p>Reemphasises the welfare principle Sets standards of care Protection from abuse Importance of education</p> <p>Child (Placement) (Jersey) Regulations 2005</p> <p>Procedures for making a placement</p> <p>Child (Secure Accommodation) (Jersey) Order 2005</p> <p>Children (Voluntary Homes) (Jersey) Order 2005</p> <p>Children (Parental Responsibility Agreement) Rules 2005</p> <p>Children (Prescribed Classes of Applicant to vary Decisions) Rules 2005</p> <p>Child Custody (Jurisdiction) (Jersey) Law 2005</p> <p>Child Abduction and Custody (Jersey) Law 2005</p>
2006	Publication of Care Matters,	

	Children First and Getting it Right for Every Child	
2007	Transfer of responsibility from DH to DCSF Social Care Institute for Excellence established	
2008	Publication of Munro Report on Child Protection Legislation to improve health and accommodation of children in care Children and Young Persons Act Enhances the contracting out of services	Williamson Report on Child Protection External review Role of residential care New management structure Howard League report on Youth Justice in Jersey Ratify UNCRC Child specific policy Preventive services
2009	Report on death of Baby Peter Connolly	
2010	Change of name of Government Department to Education Children, Schools and Families Act Legislation to improve education of children in care New arrangements for special educational needs, disabilities and family proceedings	
2011		
2012	College of Social Work established	Inspection report by Social Care Inspectorate Skilled front line staff but residential and foster carers undervalued Children felt their views ignored Lack of performance indicators Action for Children Report on Services for Children and Young People with Complex and

		<p>Additional Needs</p> <p>More inter-agency cooperation, More prevention and early intervention Joint working practices and objectives Reorganising relevant social work teams Promoting a personalised approach Reviewing legislation and guidance and developing new services</p>
2013		<p>Follow-up Inspection report</p> <p>New structure, better planning, children heard, residential staff supported and better out-of-hours contact. But, commissioning strategy, recording of information, evaluation, complaints procedures, vision for residential care, training manuals and performance management system still need attention.</p>
2014	<p>New Adoption Act in process</p> <p>Legislation in Scotland to improve continuity of care</p>	<p>Children’s Policy Group</p> <p>Review of and plans for implementation of 60 recommendations in previous reports</p>

Changes in child care since 1945: three general points

98. This quick Cook’s tour of post-War child care history is inevitably selective but before drawing out some general themes and trend, several points need to be made to clarify the discussion.
99. When comparing ‘then’ and ‘now’, it is important not to romanticise the past. Resources were scant, practice was variable, abuse went under-reported and outcomes were unknown; but some of the relational element of the old children’s departments has undoubtedly been lost and social work has become

more structured and bureaucratic. However, if you take one area – the education of children in care – changes for the better are vivid, as manifest in Sonia Jackson’s recent book on this topic^{xxxix}. It was scarcely an issue thirty years ago but is now funded and planned to a sophisticated degree, with a ‘premium plus’ extra to school for each looked-after children on its roll. On the other hand following the Southwark judgement that voluntary care should be used to accommodate homeless 16-18 year olds, the latest evidence suggests that these young people tend to be placed in B & B or lodgings rather than the professionally staffed hostels of former years^{xl}.

100. A second commonly asked question is: are children in care more ‘difficult’ than in the past? As a population, in the UK at least, children in care today are more ‘difficult’ in terms of their presenting problems and/or behaviour. This is to be expected as preventative services are more effective, there are alternatives to care and problems that commonly led to a child’s admission in the past, such as poverty, eviction, mother’s confinement, non-school attendance, beyond parental control and petty delinquency, are dealt with in other ways. Thus, the ‘easy’ cases are filtered out. We also have better understanding of and are more sensitive to the effects of abuse, trauma and separation, the difficulties of attachment and identity and the causes of disabilities. Children and families also have more rights, making processes more complex.
101. But, and this is the important point, at the level of an individual child, any difficult youngster today could be matched with a similar one fifty years ago. In that sense there has been little change.
102. A third perennial issue concerns the training of professionals and carers. It took a long time to establish a national training for social workers but the Certificate in Social Work (CQSW) and Certificate in Social Services (CSS) were in place by 1980 and degree and post-graduate courses have followed. The College of Social Work and Social Care Institute for Excellence have opened, both initiatives reflecting a major change from the early years.
103. However, certain problems associated with training endure. Social work is still seen as a poorly paid occupation for women (85% of child care staff are female). The amount and level of training among residential staff remains lower than that for field social workers, as it has done since records began. But it is the turnover as well as the availability of trained staff that present difficulties at the moment, especially in large cities. Some urban councils have staff vacancy rates of 25% and a 20% annual turnover. For carers, training opportunities tend to have lagged behind those available to professionals but most foster parents and adopters now receive some training and support, although the national picture is still patchy.
104. But even if training improves, there is still a problem of whether we can actually legislate for good care. The research by Ian Sinclair and colleagues shows clearly what children want and value in foster and residential homes – fairness, personal concern, respect, commitment, freedom from bullying, likeable staff – but it is difficult to legislate for this or train people to ensure

this happens. If it can be learned, it is more likely to be from the example set by senior colleagues than by a course or manual. Hence the frequent recommendation in inquiry reports for better training is likely to have limited effect^{xli}. No matter how subtle are the processes of recruitment, training, matching and resourcing, there is always an emotional variable which, if we take children's views seriously, must be incorporated into professional practice to achieve good outcomes. Sinclair argues that matching the professional with the human elements is a major challenge to the provision of foster and residential care.

PART 2

Trends and developments in children's services since 1945

105. In the introduction it was pointed out that another way of looking at developments historically is to identify trends, in this case in child care policy and practice. Obviously, with such a vast topic, the possibilities are enormous so nine of those we consider to be important will be selected.

They are:

- i. the differentiation and amalgamation of services
- ii. the move of rights from the hands of the state to families and to children
- iii. the focus on outcomes rather than processes
- iv. the influence of research and international comparisons
- v. the rise of pressure groups and the politicisation of child care
- vi. the balance among providers between independent for profit, voluntary and state agencies, and the growth of social markets
- vii. specialisation within a process of professionalisation of the care task
- viii. what to do with chronically neglected infants
- ix. the problem of enduring instability

Each will now be discussed in turn.

The differentiation and amalgamation of services

106. It is often assumed that social services that rely on regular interaction between professionals and users (as opposed to, say, social security) develop by increasing sub-divisions into more specialist units. Neil Smelser calls this process 'structural differentiation'^{xlii} and one can see how quickly it can happen. For example, compulsory education in England was introduced as late as 1880^{xliii} yet within the next thirty years, provision had expanded to include schools for the partially deaf (1906) and mentally handicapped (1913), as well as nursery education for the blind (1918). Similarly, while welfare workers and the NSPCC were the main agents of child protection for many years, there are now dozens of professionals trained in this area – teachers, doctors, police, therapists etc. But it is not always appreciated that change also occurs by amalgamation; the *Children Act* 1948 integrated disparate services and the 1969 Act brought offenders into the care system. The Seebohm Report of 1968 (implemented in 1971) gathered social work under one banner and in 2007 social services and education were merged. Thus, administrative and legal reform involves differentiation in terms of increasing specialisation and

amalgamation of previously disparate groups of workers into a stronger and more coherent professions at different times and, to complicate matters, there may be a trend towards specialisation within a process of growing amalgamation.

The move of rights from the hands of the state to families and to children

107. For many years the father's family was perceived as sacrosanct and it was not until 1889 that a voluntary agency (the NSPCC) could enter a home to rescue a child from abuse. But thereafter, the state increased its power over families demanding education and responsible parenting, imposing penalties and instituting powers to remove children at risk of harm.
108. In the 1970s there was concern that the State's powers were too draconian and the voices of children and families were not being heard. The 1970s saw the emergence of *Who Cares?*, *The Voice of the Child in Care* and NAYPIC (National Association of Young People in Care), along with organisations representing carers and birth family relatives. For example, it was argued that even if a mother was proved to be neglectful, grandparents and older siblings might not be. A charity, the Family Rights Group, emerged in the 1970s, encouraged by a perspective emerging from researchers such as Millham, Triseliotis and Marsh^{xliv}. It was successful in achieving the more equal balance of power between state and family, as enshrined in the 1989 Act. But as already discussed, the rights movement did not stop there: children now have to be heard and they have a personal right not to be abused and neglected, as laid out in the 1989 United Nations Convention on the Rights of the Child.
109. In the UK the national and local state now has less power, has to argue its case before a court and can expect its plans to be challenged by the family and child. This has given rise to a curious situation whereby more individuals and families are dependent on the state because of age and unemployment, but they have more rights to protect their interests.
110. The process of taking the child's view into consideration has proved more difficult than expected. Obviously a welfare service must seek to meet the wishes of its clients, but a professional assessment of needs may not tally with the users' wishes. In addition, wishes might not be realistic, feasible and might conflict with those of others. Nevertheless, despite this complexity, the fact is that children's expressed needs and wishes are now integral components of any assessment and action plan and have mandatory force.

The focus on outcomes rather than processes

111. Before 1980, most research in child care was descriptive: it merely charted what happened and offered examples. But early in that decade, studies, such as *Who Needs Care, Lost in Care* and *Child Care Now*^{xlv}, began to measure the outcomes of being in care and the findings were not encouraging. They revealed shocking levels of drift, movement, isolation, delayed development, poor educational attainments and higher than expected mental health and behavioural problems. There were few randomised controlled trials that would

help explain what was causing what and as Sir Michael Rutter, the eminent child and adolescent psychiatrist, explained, it was urgent to move from a focus on risk associations (that is what factors are statistically related to each other) to one on risk processes that looks at what is actually causing what ^{xlvi}.

112. In 1977, the Department of Health and Social Security introduced unit returns from local authorities which were very important in allowing greater interpretation of statistics. In the 1980s it decided to act further by commissioning more outcome studies and introducing a recording method that enable social workers to assess the outcomes of the children for whom they were responsible, the *Looking After Children*^{xlvii} materials. But it took a long time for this thinking to penetrate practice because there is no requirement for social workers to be familiar with the latest research; it does not matter if they have not read Rowe and Lambert, they won't get the sack and it won't affect their promotion. This extends to some other professions; indeed, as late as 1996 a senior family court judge was able to opine, "I don't see why judges should be interested in outcomes; if they make a wrong decision it's corrected at the court of appeal". Naturally, the definition and measurement of an outcome is still an academic minefield – whose outcome, at what time and at whose expense? - but estimations of the expected effects of interventions is now a regular part of planning for children in a way that was unthinkable forty years ago and, slowly, processes are becoming the servants of objectives rather than ends in themselves.

The influence of research and international comparisons

113. There is no doubt that the social work literature has become more 'academic' in terms of the influence of research and theory. In the 1960s, there were only two or three empirical studies and basic survey material was scant. As one observer said, "It was possible to read a few books and become a world expert". Since then, there has been an explosion in the number of published studies in books and journals and in the application of their findings: the 1989 Act and the refocusing initiative were heavily influenced by research and there are now seven evidence-based centres linking research, policy and practice in new ways. It may be that research has influenced thinking rather than policy or even less practice, especially in social areas, but academic concepts, like attachment and identity borrowed from psychology, and family links and transitions taken from sociology are common parlance in discussions about children's needs. Similarly, theories about school failure and academic underachievement inform the current strategies to improve the education of children in care and the new Rees Centre has been opened in Oxford to develop these. The Government, too, plays its part by publishing ever more reliable and useful statistics. Although it would be extravagant to claim that child care is a research-based activity, the existence of organisations like *Making Research Count*, *Research in Practice* and the availability of free websites like *Prevention Action* and *Blueprints* suggest that this is an expanding activity whose influence is growing as the economic situation demands that agencies prove their effectiveness.

114. Much influential research has been undertaken in other countries, especially the US. The complexity of conducting international comparisons, for example trying to see what would happen to the same type of case in different countries, means that it is difficult to draw unequivocal conclusions. Nevertheless, there is growing knowledge about policies and practice elsewhere and several international research organisations, such as EUSARF, IPSCAN and The Fostering Network, exchange information. Also, international travel and EU membership mean that professionals and politicians in the UK are more aware of alternatives, as manifest in the frequent citations of Scandinavian welfare and Singapore education as models for others to follow.

The rise of pressure groups and the politicisation of child care

115. There have been children's charities and philanthropists since Elizabethan times and there was a large expansion in the nineteenth century, many led by the revivalist movement, to cope with the effects of the industrial revolution.
116. However, the 1970s saw something different, a plethora of voluntary organisations acting as pressure groups and often dealing with specific issues: for example, the voice of children, step-parenting or the rights of grand parents, rather than general care and protection. Moreover, these new organisations adopted a different approach: a high political and media profile, with CEOs as national figures and strong political links. At the same time, there was an increase in investigative journalism and in independently conducted inquiries, often chaired by respected public figures, that identified areas for reform and put pressure on governments to respond.
117. Unfortunately, hasty responses often produce procedural changes that do not necessarily address the underlying reason for the failures, and so have limited effect on outcomes for children. Thus, the unintended effects of honourable intentions to improve children's situations can be more bureaucracy and the domination of certain issues over others that are equally important for children's welfare. For example, the focus on the trauma experienced by babies and toddlers entering care following abuse by their families is undoubtedly important but can divert our attention from the fact that in England in 2011/2 42% of care admissions and 56% of those in care at any one time were children over the age on nine with figures of and 12% and 20% for the over 16s.
118. This change means that powerful organisations and individuals increasingly take up particular cases or causes, lobby politicians and seek media publicity. It is noticeable that when a social, issue arises, the TV news contributor is more likely to be from a pressure group, a charity or a journalist than an academic or public servant. But whoever is talking, government ministers are required to answer unsolicited questions on child care and are especially exposed during parliamentary questions and appearances before select committees. Indeed, it is significant that Tony Blair and David Cameron have given their personal backing to plans for more and easier adoption.

The balance between independent for profit, voluntary and state providers and the growth of social markets

119. As mentioned earlier, there has been a considerable shift in the UK in the amount of foster care and residential provision provided by agencies other than the local authority and the growth of quasi-commercial relationships between the purchasers and providers of services. There are currently Government proposals to extend this arrangement to child protection and the rest. The aim has been to raise standards by introducing competition and business-style commercial evaluations. In addition, large sums of money have been made available for projects and competitive bids are invited. In England, these have replaced the annual grants given to the leading child care charities to cover their overheads.
120. While this new arrangement is neither inherently good nor bad, it does raise problems for central government seeking to fashion national policies, setting standards and managing inspection. For the agencies, the issues are more practical: developing marketable programmes and recruiting, training and supporting staff and carers. A major question for staff working in these contexts is what is their professional peer group? The US model, where these arrangements are the norm, is to have strong professional organisations that examine, licence, train and monitor practitioners, similar to the Royal Colleges of Medicine in the UK. But social work and residential care staff associations are notoriously weak, as so far are the 'trade associations' for the private providers, and the quality of foster care training is variable. Much is left to the agencies and standards probably vary as, of course, they do across local authorities. Hence, this radical change in provision, which seems to have crept into the system unnoticed, raises a set of problems yet to be resolved. This diversified market is illustrated by the facts that in England today, 36% of foster placements are provided by 250 independent agencies, many of them operating for profit, and 60% of residential ones are in 1,350 private establishments almost all outside the boundaries of the commissioning authorities.

Professional differentiation and professionalisation

121. In the same way that administrative structures differentiate and amalgamate, the professions involved in child care become more specialised but at the same time become increasingly integrated into a single category. Boarding-out officers became child care officers who are now social workers but there are numerous specialisms that carry that label – teams responsible for intake, leaving care, protection, adoption, fostering and residential workers. As might be expected, there is a status hierarchy within the profession in terms of pay and promotion opportunities and residential care is near the bottom with day care, partly because more than others, it employs women on low pay, many working part-time.
122. This raises the question as to whether there is a core of professional knowledge, akin to basic medical or teacher training, that can be applied universally. But, even if there is, the core of social work training still varies in

different colleges, although perhaps less so than 30 years ago. So while things are improving, we are still not clear whom we want to recruit, what we want them to know, what we want them to do and how we want them to do it.

What to do with chronically abused and neglected infants

123. At various times, particular groups of children have attracted especial interest and been the subject of heated debates, in the 1960s it was infants in institutions, in the 1970s it was adolescents in secure units, both of which have almost been forgotten. Current anxiety surrounds appropriate long-term plans for chronically abused and neglected infants.
124. This concern is partly the result of lowering the thresholds for intervention in child protection but also a reflection of the ways parenting is affected by addictions to alcohol and drugs and of research findings that children kept at home in such circumstances or returned there from care tend to do badly. It also ties in with the ‘permanency’ perspective and the robust adoption policy in some US states; namely that if a young child cannot be returned home from care within a fixed time, he or she should be adopted.
125. There has long been debate in child care about the boundaries between long-term fostering and adoption for infants and toddlers but this has become particularly salient in the last decade. Some researchers, such as Ward and Farmer^{xlviii}, are arguing that their findings support early separation and more quick adoptions, others such as Schofield and Thoburn^{xlix}, highlight the benefits of long-term foster care, especially its ability to hold a fragile family relationship ‘in trust’ until the child is old enough to understand the situation and decide how he or she wants to deal with it. Whatever the quality of the science, the discussion indicates how underlying ideological issues still underpin child care policies and practices. Some sceptics say that the pressure to increase adoption is simply ‘new Puritanism’, others say that it is fulfilling social responsibilities for the most vulnerable children while a third group argue that it is demand driven.
126. The debate is also academic. Two psychological concepts, attachment and permanence, are frequently cited in discussions. At a recent Coram seminar, Michael Rutter^l urged caution, arguing that social workers were applying the concepts too rigidly as if these things were something children either ‘had’ or ‘didn’t have’. As a result, professionals get ‘stuck’ in an either/or situation. Studies of children’s development show that children’s attachments widen after six months, and as nothing is ‘permanent’ in their lives, this is the wrong word to use. He suggested ‘commitment’ as an alternative. He closed by saying that there was a broad consensus among professionals about what these children needed, but that the language used to describe it was not helpful.

The problem of enduring instability

127. One of the problems that has come to dog the British children’s services is instability. The lives of children and families ‘at risk’ are often unstable – serial partnerships, moving house, erratic styles of child care and so on. But

superimposed on this has been the instability of placements, of staff, of administrative arrangements and of funding - all this despite the enthusiasm for permanence. This has raised the question discussed in an influential article, 'Can the corporate state parent?' The conclusion was that it can with difficulty if certain conditions are in place^{li}. These include an auspicious context supported by legislation that helps services meet the needs of a very diverse group of children, acceptance of responsibility for supporting them while they are in care and after leaving, better integration between national and local policies based on common values and principles and the delivery of high quality care. But the other side of the coin is that some things do need to be changed – poor staff, inadequate carers, misconceived policies and children's behaviour. The enduring problem has been to strike the best balance between change and continuity, neither sticking to what doesn't work nor introducing change for the sake of it or as a short-term political or professional convenience.

A comparison between the placements of children in care in 1980 and in 2010

128. Two recent articles have compared the situation of children in care in 1980 and 2010. They portray a mixed picture. There have undoubtedly been some dramatic changes in services but other issues persist, despite the attention devoted to solving them.
129. Professor Roy Parker identified the main changes between then and now as: fewer children in care (100,000 to 70,000 in England^{lii}, although the number has risen from 60,000 in the past ten years), a higher proportion in foster care (35% to 73%), a rise in the number of adoptions from care (1,600 to 3,500) and fall in the proportion of adoptions from care involving children under the age of one (23% to 2%), a decline in the role of voluntary organisations serving children and a virtual disappearance of their care contribution, the disappearance of offending as a reason for admission, an increase in the category 'neglect and abuse' as a reason (21% to 61%), a fall in the number of children on care orders (45,000 to 38,000) but a rise in the proportion that these children form of the total care population (45% to 58%), a rise in the number and proportion of children from ethnic minority groups (figures for 1980 not available, but 27% now classified as 'non-white') and the arrival of new groups, such as asylum seekers. He argues that these changes not only reflect policies and alternative provision, but also changes in the wider society - more divorce, single parent families and youth unemployment - as well as growing inequalities.
130. Parker also notes much of what has been discussed earlier in this paper: the rise of pressure groups and independent inquiries, the growth of research, the emphasis on prevention, the attention paid to children's wishes and feelings, the tightening of administration with time requirements for reviews and decisions, and greater awareness of outcomes and costs.
131. But some things have not changed. Parker notes that we are still unsure about how to tackle poor parenting. Continuities also occur in the ratio of boy to girls in care (55%:45%), the difficulties faced by care leavers and the number

of placement changes while in care. The rates of children in care per 1,000 under 18s in the local population have remained remarkably stable given all the changes in policy and external circumstances as do the differences in rates between local authorities that cannot be fully explained by demographic, social or economic factors.

132. A second study by Bullock and Blower^{liii} looked at the placements of 450 children entering care in sequence in England and Wales in 1980 and in 2010. In 2010, a higher proportion of children entering care were under the age of one than in 1980 (21% compared with 11%) and more were admitted because of abuse or neglect (48% compared with 26%). Consequently, fewer came into care because of behaviour difficulties (17% compared with 25%) or family breakdown (35% compared with 49%).
133. But as was the case in Parker's study, not everything has changed for the better. The number of placement changes experienced by children while in care has stayed fairly constant and has only declined over the thirty years in question for those in care for two years (from 77% having at least one move to 62%), with an increase from 19% to 27% in the rate for those in care for less than six months. More concerning was the finding that the percentage of children experiencing more than three moves rose for both groups (from 3% to 9% for the short-stay children and from 9% to 10% for those staying longer).
134. The most startling contrast, however, is the demise of residential care. This echoes what was noted earlier about its diminishing role and the figures for 2010 confirm this point. In England, there are currently 30,000 fewer children in residential care than in 1980. The proportion of first placements in residential settings was 46% in 1980 (21% in observation and assessment centres) compared with only 2% in 2010. The rates for foster care rose from 42% to 75% respectively. Three quarters of all the placements experienced by children in care for two years in 1980 were in residential establishments compared with 2% in 2010.
135. As to the quality of residential care and revelations of abuse, particularly at Haut de la Garenne, set off the Jersey inquiry, two appendices are attached to explain what has happened and why with regard to residential care for children in the England and Wales. What is interesting about Jersey, however, is that in their 1980 report, the social services inspectors from England directed 20 of their 99 recommendations to Haut de la Garenne compared with only 11 on the whole fostering service. They recommended replacing the institution but failing that, radical changes to reception procedures, unit sizes, redefinition of staff roles, in-service training, home comforts, meals prepared in units, leisure facilities, better reviewing of children's progress and the development of alternatives for long-stay children.

Conclusion

136. This paper has charted the main changes in legislation and practice in the UK since 1945. It has done this chronologically by looking at each Act and discussing the reasons for its implementation and the underlying principles

that justified it. It then looked at trends in child care provision and highlighted nine areas where the changes have been significant. In each of these discussions an attempt has been made to compare the situation in Jersey with what has happened in the UK. To illustrate these, a final comparison was made between the children entering care in England 1980 and in 2010.

137. The themes emerging from the various inquiries and development exercises in Jersey have much in common with the UK and subsequent scrutiny suggests that services are moving in the same direction with regard to legislation, guidance and management. However, as outsiders and non-lawyers, we would make the following observations on some of the key objectives, conclusions and recommendations that have regularly featured in inspection reports and policy documents and where there appears to be some need for further development.

Key objectives

The looked- after system is not isolated from the rest of children's services

138. There are attempts to introduce a continuum of services and use care positively to meet a variety of needs and situations. However, most of the background papers are about management with little reference to who does what, to whom, for how long with what effect. Thus, it is difficult to know what services are actually like for those who receive them. We did not get a sense of an overall vision of a comprehensive service and the role that interventions like residential care make within it.

The whole service is needs-led and evidence based

139. The lack of information about children in need and those who come into care, as well as the outcomes of what is done, make it difficult to comment. The management plans are clear but have to be related more closely to outcome evidence to provide a sense of whether the service is any good. For example, there is no mention of validated programmes and methodologies that might help.

All assessment and decisions should be focused on outcomes

140. As we could not find any detail on individual cases and how decisions have been made, it is not possible to answer this question. It may happen but there does not seem to be much official requirement for it to be done.

Services should form a logical and integrated continuum with a single referral point, a single multi-disciplinary assessment and clear thresholds for the application of each service

141. There is little mention in the documents scrutinised of how services fit together or how children qualify to receive them.

A context should be created that supports an integrated team approach and a proper balance between investigation and help; and between prevention early intervention, treatment and diminished recurrence

142. An integrated team system seems to be developing and there are aspirations for a more balanced approach to children and families, but family support is hardly mentioned as a social work method and examples of prevention and early intervention are scant.

The views of children and families should be ascertained and incorporated into plans and the delivery of services

143. Considerable progress has been made in listening to children, but perhaps less so to families. There are aspirations to incorporate them into the delivery of services but no evidence is provided about whether this has happened.

There should be monitoring or even research to check that the match between needs, services and outcomes is optimal and cost effective.

144. There is a serious deficiency here with little evidence available on what is happening and with what effect, the expressed wish to match needs and services better is welcome but not illustrated in the documents reviewed.

Final comment

145. These observations on Jersey Children's Services Department are inevitably limited and one-sided in that they have been informed by a small amount of information and without knowledge of what services are available and what day-to-day practice is like. Nevertheless, what material has been provided suggests that the Department is moving more closely to the UK pattern and seeking improvements to become more effective. The recent legislation, guidance, inspection reports and strategic plans indicate this. Two lawyers who have recently scrutinised child care law in Jersey reach a similar conclusion in that although progress has been slower than in the UK, progress has been made. Nevertheless, they stress that there is room for improvement with regard to listening to and incorporating children's views, strengthening arrangements for their independent representation in legal proceedings and ensuring that any interventions essential to children's welfare are not denied because of cost^{liv}. In her article of 2009, Barbara Corbett writes that since 2005 'child law in Jersey has largely followed the English Children Act 1989. Nevertheless, certain areas have been slower to develop in Jersey but this is now changing with very significant developments in child law having taken place over the last year'.

146. However, the papers we have read are mostly about good management, which is a necessary but not a sufficient condition for change. They are also framed in such general terms that no one could disagree with what is being proposed, hence there are few glaring contradictions or weaknesses and so no accompanying dialogue. It appears that there is a more to be done before the Department becomes 'state-of-the-art'.

147. Finally, we were expecting, given Jersey's location and history, to encounter more French influence. Compared with England, France has a different system of child protection and education and is less hesitant to use residential care^{lv}. Also, the philosophy of pedagogy and the holistic approach to child development it encourages are important forces shaping professional practice.

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July 2014

The authors

Professor Roger Bullock MA PhD was born in 1943 and studied at the Universities of Leicester and Essex. In 1965 he joined the Social Research Unit when it was based at King's College, Cambridge. He moved from Cambridge when the Unit transferred to Dartington Hall, Devon in 1968. He was the Unit's director from 1994 to 2003. He is also Professor Emeritus of Child Welfare Research at Bristol University. He is editor of the British Association of Adoption and Fostering Agencies (BAAF) journal *Adoption and Fostering* and a fellow of the Centre for Social Policy at the Social Research Unit, Dartington. His research into services for children and families is discussed in: N.Axford, V.Berry, M.Little and L.Morpeth (eds.) *Forty Years of Research, Policy and Practice in Children's Services: A Festschrift for Roger Bullock*, Chichester: John Wiley and Sons, 2005.

His research career has involved studies of almost every type of residential establishment for children, such as boarding schools, children's homes, approved schools, secure units and therapeutic communities. His other interests cover child protection, youth offending, community services and family support, as well evaluations of interventions, preventative initiatives and epidemiological surveys of the needs of children and families and the services available to them.

He has given evidence to and participated in many working parties concerned with child welfare, for example the Warner Committee, The Report of the Committee of Inquiry into the Selection, Development and Management of Staff in Children's Homes (1992) and the Department of Health's Support Force for Children's Residential Care (1995). Many seminars have been convened at Dartington Hall over the years to discuss policy and practice issues in children's services, youth justice and family law.

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Prior to 1958: National Service in RAF (Egypt and Libya); child care officer then housefather in a residential establishment for vulnerable boys; teaching at boys' secondary schools; part-time lecturing on the social services to local government officers in two colleges of further education alongside research into foster care.

From 1965 additional appointments have included being the rapporteur for two United Nations conferences on social policy and author of their final reports; a member of the government's Inter-departmental Committee on the Local Authority and Allied Social Services; a member of the Milton Keynes New Town Development Corporation and chair of their social development committee; chair of the Social Policy Association (on two occasions); chair of the British Agencies for Adoption and Fostering; Scientific Advisor to the Department of Health at different times on child welfare, social security and local government; a member of the social policy committee of the Economic and Social Research Council; a member of the University Grants Committee on the social sciences; a member and chair of a number of committees of inquiry and research consultant to many research projects, for example, for the National Children's Bureau; the Thomas Coram Research Unit; the County Council's Association and the Institute of Psychiatry. I was also the director of studies for three years for the Department of Health and Social Security's summer schools for their senior staff.

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A personal note on working in residential care in the second half of the 1950s

With respect to my time working in a boys' home I can add a few things. I was there for about a year in the second half of the 1950s. It was a local authority home run by the Children's Department. There were usually about 15-20 boys ranging from eight to 16-17. There were just three live-in staff including me although domestic staff came in on a part-time daily basis. One of the attractions of the post was that it came with rent-free accommodation (a flat on the premises) at a time when we were starting a family (two young children already) and were hard-pressed for money. However, the salary was low.

I was never aware of any major abuse of the boys, either by the master or matron (a married couple out of the old public assistance system) or amongst the boys themselves although the regime was rough and ready. The boys had what today would be called learning difficulties but with other problems superimposed; for instance, partial sightedness, day and night soiling, bed-wetting, illiteracy, hearing problems and so on. Looking back the Home was the last resort for boys whose problems had not been adequately dealt with and whose former placements had failed. There was one black lad (8 year old) but there seemed to be no racial jibes or harassment by the other boys.

Visitors were few and far between. I cannot recall a parent or a social worker visiting but one Home Office inspectors did spend the best part of a day there. I never saw his report but nothing seemed to change thereafter. There was little turnover – pretty well the same boys were there when I left as when I arrived.

Declaration of interest

Neither author has any personal or professional connection with or vested interest in Jersey children's services or with the Childcare Inquiry.

Neither author is a trained lawyer.

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APPENDIX 1

This is an edited version of the article: R.Bullock, 'Residential care' in G. Schofield and J. Simmonds (eds.) *Child Placement Handbook: Research, Policy and Practice*, London: BAAF, 2009, pp. 201-19.

RESIDENTIAL CARE

The diminishing use of residential care in the UK

As residential care has been such an important part of child care provision in the UK, the diminishing use of this option over the past 30 years represents a major policy shift. It raises the question of why something that was so highly valued in the past is now so out of fashion. In the 1920s, for example, the Thomas Coram Foundation fostered children when they were young and then moved them to a boarding school out in the country, a practice that continued until the 1950s but which now seems incomprehensible.

Many reasons for the decline can be posited: some are obvious, such as rising costs, staffing difficulties, poor child outcomes and abuse scandals, but others are less clear and reflect things such as increasingly sophisticated knowledge about child development, viable alternatives and the broader developments in social work discussed in Roy Parker's introduction to the Wagner Report (Appendix 2).

Residential establishments vary in their size, regime and role but the term generally covers settings in which children are placed with other children for a least one night with the aim of meeting a welfare need and, hopefully, improving their health and development. Children spend the majority of time outside school or work in this context and there are usually no adult family members present. In addition, the number of children will usually exceed the number of staff on duty at any one time.

In 2013, 12% of the 68,110 children in care in England were living in residential homes (10%), schools (1%) or other types of establishment (1%) but the overall figures can give a misleading picture. Although the proportion of all the looked after children living residentially is 12%, they are mostly adolescents and the proportion for the 10-18 age group will be higher, nearer 20%, compared with around 2% for those aged under 11. The relationship between residential care with other services also needs to be considered. For example, in 2009 there were nearly 3,000 young people under 18 in prison department custody who in former years would have been in residential homes and schools. So, it appeared that the decline in the use of residential care for looked after children had led to increased use of prison custody, suggesting a process of one system offloading cases onto another. But since 2010, the number of entrants to youth custody has also fallen, by as much as 55%, questioning this off-loading hypothesis and warning of the dangers of generalising from circumstances prevailing at one particular time.

Classifying residential care

There have been several attempts to classify the plethora of provision into discrete categories. One, made by Beedell in 1970, identified at least eleven distinct functions - physical care, safety, control, education, relationships, stability, relief to the wider child care system, shelter, containment, assessment and group work. Another, by Berridge (1985), found that the main functions of the children's homes he studied in the 1980s were aiding reception to care, controlling difficult adolescents, caring for groups of siblings, rehabilitating long-stay children and dealing with the aftermath of placement breakdowns.

The most rigorous classification of British and North American establishments for children is that by the Chapin Hall Center for Children in the University of Chicago. (Chipenda-Dansokho et al., 2003). They identified three dimensions that, independent of one another, appeared to differentiate residential provision most sharply. (Other dimensions were significant but were closely related to the three identified).

They conclude that residential provision can be divided according to: the needs of the children being met; the organisational structure used to make the provision and the extent and nature of parental involvement and autonomy.

A five-fold typology of establishments emerged:

1. Facilities that are primarily focused on providing high quality education and less pre-occupied with students' health and behavioural needs.
2. Facilities that provide an enriched educational experience but also address children's psychological and behavioural needs to meet these ends.
3. Facilities focused on meeting an identified cognitive or educational deficit in children's development. Since such deficits frequently have their origins in family dysfunction and/or are manifest in poor behaviour of the child, the placement demands considerable specialist resources.
4. Facilities for children with a mixture of social, psychological and behavioural needs and who are generally educated in ordinary schools. The placement tends to be short and part of a range of provision focused on several family members, not just the child.
5. Facilities for children with serious psychological needs and behavioural problems that overshadow other developmental goals, including education. Some of these placements are secure.

Using this classification, it is clear from what has been said so far that residential care for looked after children in the UK falls mostly in categories 3-5.

Trends in residential child care

In addition to the considerable decline in the use of residential care for looked after children in the UK over the past 30 years, other trends have been identified within the residential sector. In 1996, Gooch identified these as:

- the replacement of single-sex establishments by ones that are co-educational but which, in practice, are dominated by boys
- the increasing age of residents at entry
- more young people with health problems, behaviour disorders and disabilities
- greater racial and ethnic mix
- larger catchments areas, raising problems for educational continuity and contact with home
- more provision by private agencies
- less specialisation by sector with a resulting mix of needs in each establishment
- assessment by need criteria rather than social role categories, such as disabled or special educational needs
- a more generalist service
- shorter stays
- rising cost
- more concerns about rights and protection; and
- further reductions in the size of units and in the numbers accommodated by the system but a larger proportion of the total places in secure accommodation or other specialist centres.

Naturally, the factors that explain changes in the use of private boarding schools, establishments for children with special educational needs or penal institutions may be different from those that affect child care establishments but in all of these sectors the important point is that viable alternatives have been created, even for persistent offenders and highly disruptive adolescents,

Three perspectives can be usefully applied to residential care to help understand the whole picture: the first looks at its role and function in the overall child care system; the second looks at its effects on children; and the third explores what needs to be done to make it work.

(i) Residential care as part of the wider child care system

Evidence from research in this area (Department of Health, 1998) suggests that residence is used differently for different children. It is a first placement for many adolescents coming into care because of family tensions and difficult behaviour but a later choice for children whose foster care placements have disrupted or who present increasingly severe needs, often associated with earlier trauma and abuse. Thus, residential care plays a different role in different areas of a child's life at different times.

These studies reveal two seeming contrasts. The first is that the majority of young people in residence are difficult adolescents in terms of their challenging

behaviour at home, school and in the community. The second is that only a small proportion of all looked after adolescents who display challenging behaviour are placed residentially.

When the needs of the resident children are scrutinised, it is clear that the main reason for choosing residential care nowadays is to control or improve difficult or disturbed behaviour and that most of the other functions suggested by Beedell and Berridge, such as aiding admissions or keeping siblings together, no longer apply. However, these difficulties do not occur in isolation and affect other areas of children's lives, such as poor peer relationships or suspicion of professionals, and may be associated with special educational needs, making the residential task wider than just ensuring control.

Compared with other looked after children, however, the aforementioned studies found that the harm inflicted by parents on the children placed residentially is, with some notable exceptions, less of an issue than in foster care and when it has occurred tends to be emotional and sexual rather than physical. Levels of neglect are also lower and in some cases it was parents at the end of their tether who first approached Children's Services. However, other family difficulties prevail, for example many young people will come from disrupted and reconstituted families and parents with a chronic mental health problem.

Out of area placements

One issue facing professionals placing children residentially is whether to use the local authority's own facilities or purchase places from voluntary or independent providers. This latter group are known as 'out of area' placements, which is a misleading term because purchased placements can often be local. It is more accurate to perceive them as externally purchased. As these add an extra cost to budgets, they are a highly visible item of expenditure and thus subject to wide scrutiny.

A study of 'out of area' placements (Bullock, 2009) found that they are used for four different groups of looked after children, namely: children presenting severe and complex behavioural problems which have exhausted in-house services; children displaying behavioural difficulties and who are at continuing risk of harm; children in need of specialist therapy, especially for sexual abuse; and disabled children whose needs cannot be met locally. Moreover, they are much more used for boys and girls (although the ratio differs across the four groups).

The benefits of external placements have to be balanced against the secondary problems they create for children and families and the risk of being 'out of sight, out of mind'. Many external placements are a long way from the child's home their contact with their birth relatives is infrequent. Often, there are no clear plans for the future other than to stay put. Naturally, as the young people are mostly adolescents, they often form new friendships and emotional relationships in their new area, making return home difficult. While this experience is common

for students going to college at 18, there is a danger that a changing perception of 'home area' will affect looked after young people at an earlier age, without the supports and status that student life brings.

(ii) Effects of residential care

A good care plan for a child should specify expectations about what a residential placement is likely to achieve. But as the young people being admitted are often unsettled and distressed, because of turbulence at home or disruption to foster care, some initial expectations might have to be pragmatic, such as to provide safety and stability. The aims of the residential sojourn will, therefore, be a mixture of immediate benefits and, hopefully, improvement in the child's long-term situation.

Because of this complexity, it is difficult to identify any general effects of residential care as the intervention covers such a wide range of approaches and the evidence that would be necessary to show this, namely a set of randomised controlled trials, is scant. Nevertheless, claims are made in the literature but these are often based on case studies and tend to generalise from one type of provision or particular group of children to the whole child care field. Moreover, there is a further danger of attributing to residential care defects of the care system as a whole.

To clarify the situation, it is useful to differentiate 'procedural' from 'treatment' approaches (Clough et al., 2006). The first stresses good child care practice at the expense of aims and so focuses on making the establishments nice places to live. While this provision does not offer specialist therapy and, as had been shown, control is often the overriding concern, it should nevertheless provide an auspicious context for the work required to meet children's needs, such as improving their behaviour and family relationships, encouraging positive peer interaction and boosting self-esteem.

Second, are 'treatment' approaches, for example those based on special education, behaviour modification or psycho-social models, that fashion regimes and structures to 'treat' assessed problems, such as attachment, conduct and emotional disorders, anti-social behaviour and learning difficulties. While therapies will differ for individual children, the important feature is that the whole regime is conducive to their application and is staffed and structured to that end.

Many other opportunities are offered by residential care, for instance the use of residential groups for therapeutic work, rehabilitative work with children rejected by their families and, of course, the imposition of control, such as for those in secure units.

So what might be expected from a residential experience? Traditionally, it has been suggested, but it has to be said without evidence that attains the status of a clinical trial, that residential care can offer several benefits. These are: to provide

stability and a stimulating environment, to widen cultural and educational horizons, to create a framework for emotionally secure relationships with adults and to provide a setting for intensive therapeutic work. But these gains have to be set against difficulties of providing unconditional love, constraints on children's emotional development, poor staff continuity and marginalisation of children's families and other welfare services. While much is known about the dangers of placing young children in residential care and the neurological and emotional damage it can inflict, much less is known about the effects of such placements on the development of older children.

But two outcomes are more certain, namely that residential care can have a profound effect, for good or bad, on children while they are there and that regimes based on child welfare principles achieve better results than those that do not. Numerous studies have compared changes in the lives of children placed in different types of establishment and found that the incidence of such things as running away and of violent behaviour varies and that these contrasts are not explained by young people's background characteristics, although it is usually unclear whether similar gains would have been made without residential placement. The problem is, however, that benefits rarely carry over or are much reduced after leaving and the long-term effects of residential care have proved difficult to identify. Nevertheless, while there is much less difference in young people's difficult behaviour after leaving, the pattern of good and bad homes is usually maintained, whatever the type of establishment, suggesting that the influence on young people's potentially damaging behaviour while they are resident is mirrored by a smaller but still significant effect on behaviour after departure (Sinclair and Gibbs, 1996).

While long-term outcomes are easy to describe, they are more difficult to explain. For example, follow-up research suggests that some children who are challenging and unsettled while in residential care do quite well in the longer term - some acting out girls for example - while others who are more quiescent, such as withdrawn institutionalised boys, generally fare badly, drifting into homelessness and recidivism (Bullock et al., 1998). Whether this is due to the long-term nature of the children's problems or the differential impact of a residential experience, it is hard to say.

Given these uncertainties, any conclusions about the benefits of residential care will be contentious but some establishments claim success in overcoming its alleged weaknesses (Rose, 1990, 1997; Ward et al., 2003). This occurs, for example, in response to the criticism of failing to provide unconditional love. Follow-up studies of leavers from long-stay residential treatment units, particularly therapeutic communities and those which provide for learning-disabled adults, indicate a model of 'quasi-institutional adoption' and although only a minority of leavers receive such enduring support, the long-term outcomes for those who do are encouraging (Little & Kelly, 1995; Bullock et al., 1998). However, critics argue that the numbers of children benefiting is probably smaller than claimed and the high costs of such provision are making this option increasingly unrealistic.

Of the various studies of residential care undertaken, Whitaker and colleagues (1998) are the most optimistic about residential care. They conclude that, although there is no list of circumstances under which residential care should be a preferred option, there are occasions when it can be helpful. These are:

- when there is a deficit in attachment forming capacity and a young person can benefit from having available a range of carers;
- when a young person has a history of having abused other children;
- when a young person feels threatened by the prospect of living in a family or needs respite from it;
- when multiple potential adult attachment figures might forestall a young person from emotionally abandoning his or her own parents;
- when the emotional load of caring for a very disturbed or chaotic young person is best distributed among a number of carers; and
- when the young person prefers residential care to any form of family care, and would sabotage this if it were provided.

In a later research review, however, Rushton and Minnis (2002) are less convinced. They express concern that staff in residential homes have no training or contact with child and adolescent mental health services (CAMHS) to help them deal with the problems they face. They suggest that all of the treatments offered to troubled and troublesome teenagers can be delivered in foster care where there is less likelihood of bullying, sexual harassment and delinquent cultures. In contrast to Whitaker, they argue that when children have attachment difficulties, therapeutic foster care seems preferable. But given the control difficulties that some young people present, there is probably a need for a small number of high quality residential establishments for children who cannot be accommodated any other way or for whom there is a policy to keep them out of prison.

The children's views provide a useful indication. Much of the discussion in children's accounts of being looked after focuses on relationships, whether between children and staff or among peers and how important and empowered they feel when their views are taken seriously. A novel attempt to combine the child's view of residential life with statistical research evidence on outcomes is found in *A Life without Problems: The Achievements of a Therapeutic Community* (Little and Kelly, 1995) in which the findings are informed by a juxtaposition of quantitative evidence on children's care careers and qualitative material from a teenage girl's diary.

When asked for their views, children are often complimentary about residential care, at least in its modern version, stressing the care and attention they receive. But, again, there is a problem of interpretation in that Sinclair and colleagues (1998) found that life after a favourable experience was often wretched and its poor quality meant that there was only a weak correlation between a good residential experience and happiness thereafter. Some young people find the contrast between the caring home and the uncaring community too much to handle. Obviously, a child needs to feel safe and be happy while looked after, but this must not be at the expense of longer-term misery and isolation.

(iii) Residential establishments as organisations

When the child's needs have been assessed and a residential placement identified, how can professionals decide whether the establishment is any good?

When looking at residential establishments for children, the immediate reference points are the surface features, such as the style of leadership, the fabric and resources. Judgements about quality are often reached from immediate experiences, initial conversations with staff or the visible responses of the children. It is easy to assume that the most important aspects are either the people or the regime and that, if these elements are right, all will be well. But a stream of research into this area has revealed a more complicated situation.

Certainly, individuals, whether an efficient manager or an unruly adolescent, are important in affecting what happens in a home or school but they are not enough to explain everything. Successful managers in one context often fail elsewhere and establishments vary in their capability to help young people (Hicks et al., 2003). Some features that common sense might associate with a good home have been found to be relatively insignificant - the quality of buildings, the proportion of trained staff, the characteristics of the children, for example, are not sufficient *on their own* to produce good results.

What aspects of residential settings have been found to be associated with good quality care and optimal outcomes for children and families?

While residential homes have many aspects that can be easily differentiated, such as buildings or staff roles, there is something more than the sum of the parts that seems to be important in determining what happens therein. Many writers have used terms such as 'culture' or 'ethos' to describe this. It is precisely these feelings and messages that a visitor picks up. They may be long standing, such as when there is a traditional way of doing things or may be a product of stress or boredom. These cultures have been shown directly to affect the behaviour of children and staff, not just in terms of conformity or deviance but also in shaping attitudes. However, as the precise nature and direction of the association has been difficult to determine, the principal message for managers was to ensure that cultures did not cohere in a negative and destructive way. But, even then, homes seemingly well planned from the start have failed to succeed.

Several studies have help us understand better how residential establishments work: *Working in Children's Homes: Challenges and Complexities* (Whitaker et al, 1998); *Children's Homes: A Study in Diversity* (Sinclair and Gibbs, 1998) and *Making Residential Care Work: Structure and Culture in Children's Homes* (Brown et al, 1998) The first takes a relatively unusual starting point of the experiences of staff; the second analyses the factors that predict optimal outcomes and the third looks at the relationship between staff and child cultures to unravel precisely what causes what.

All three studies reach similar conclusions although they express them in different ways. In general terms there has to be a complementary relationship

between: the needs and wishes of the children, what the home or school tries to do and how it is resourced and structured to do this, a belief among staff that the aims are feasible and that they have been given sufficient responsibility to undertake the work. Moreover, all of these have to be pursued in a child welfare context and a wider ethos of corporate parenting in the responsible agencies.

Naturally, many factors generate these conditions and among those identified are: the rate of turnover; admissions policy; mix of children with regard to needs; ethnicity and gender. There are also indications of what leads to good outcomes. Sinclair and Gibbs (1998), for example, concluded that homes did best if they were small; the head of the home felt that his or her role was clear, mutually compatible, not disturbed by reorganisation and that he or she had autonomy; and, that staff agreed on how the home should be run. Other researchers have emphasised the quality of staff-child relationships, stressing listening, informality, availability, sensitivity, being informed, respect and an ability to offer practical help.

Although the importance of individual factors, for example the size of home, might be argued, there is little doubt that if these conditions are in place, the establishments are not only likely to achieve better outcomes but are also more likely to satisfy children's wishes. Sinclair and colleagues found that young people judged homes according to whether they wanted to be there, whether there was a purpose to their stay, whether they moved on at the right time and the quality of life on leaving. Even though a third of them wanted to be somewhere else, they appreciated homes if they were not bullied, sexually harassed or led into trouble, if staff listened, the regime was benign and the other children friendly and if they showed some tangible improvement, such as in education. Most wanted contact with their families but not necessarily to live with them. Individual misery was associated with sexual harassment, bullying, missing family and friends, poor relations with other residents and lack of success in esteemed roles such as sport.

Conclusions

The studies discussed all emphasise that when children are looked after, there is a danger that deficiencies in the care placements will exacerbate the deprivation and harm that necessitated the initial separation from family. Residential care is no exception. A child doing badly in residential care needs a good quality intervention, not transfer to another poor quality home. System neglect, whereby the needs of children remain unmet, is less obvious than physical or sexual abuse but is no less dangerous. So, what message do researchers offer to those placing children?

Three general messages are indicated. They are:

- There is limited value in looking at residential establishments in isolation. There might be organisational changes to improve situations, such as better record keeping or more effective communication, but these are unlikely to be sufficient to guarantee high standards;

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- there has to be an initial understanding of the needs of the children being looked after. This is not always the case, resulting in opinionated generalisations about children's situations and limited action in areas such as health, education and work with families;
 - there has to be awareness that residence is only one of several means of meeting the child's needs and an understanding of how it contributes to meeting the needs of a particular child. These two points should be reflected in the services provided and the care plans fashioned.

In addition, some shifts in thinking would be helpful. For service managers, two mind-sets need to be challenged. First, is the tendency to view residential care as a last resort, as something to fall back on when other interventions fail. The second is to provide residential facilities but then put in place services to keep children out of it. Residence is a method of social care and should be used as such, so arguments 'for' or 'against' it are absurd. In some instances it is needed, in others it is irrelevant.

For practitioners, two aspects of matching interventions to children's needs are important. First is what actually happens in residential care and, second, what a residential experience adds to a child's welfare. There are few interventions specific to particular care settings, although opportunities may be greater in some contexts than others. In this respect residential care is no different to foster care or living at home.

For the reasons explained, specific effects of residence are claimed but not proven but it does seem to be helpful in two situations. The first is for adolescents whose challenging behaviour at home, school and in the community requires placement in a supportive but emotionally undemanding setting, staffed by experienced people. This should encourage continuities in the young person's social life, education and employment and those family and peer relationships that he or she wishes to pursue. Stays should be short and there should a clear exit strategy. The difference between this and a foster home is in the roles of staff, the relationship demands made on the young person, the availability of a peer group and the capacity of the establishment to contain the effects of difficult behaviour and prevent status deterioration. From the point of view of the child's living experience, however, it may not be obviously different from a large foster family.

The second is when there is a need for specialised therapy or treatment, either within the residential establishment or outside it. In these situations, what matters is that style and ethos of the residential setting support what is required by the treatment. For those seeking such placements, the aspects to consider are: the value of the group of residents; the availability of a number of adults and freedom to choose with whom to make relationships; the undemanding emotional nature of the ambience that gives the young person choice and power; an environment that ensures safety, supervision and control and an active stimulating programme. It might be possible to achieve equally good outcomes in

foster care or with support at home, but for some individuals and in some situations it is not.

The responsibility of those managing residential establishments is to ensure that the 'culture' of the unit is positive. Congregating difficult adolescents creates potential problems and the studies of children's homes have all found places dominated by crime, bullying, drugs and prostitution, and staff who turned a blind eye to such behaviour.

Finally, service managers cannot ignore the wider population of children in need as the amount and type of residential provision will be affected by broader policies, such sending young offenders to prison and willingness to accommodate troubled and troublesome teenagers. Good quality residential care can exist within a system of poor adolescent services, and may unwittingly support it.

The future of residential care in the United Kingdom

The future thrust in children's services in the United Kingdom will be on prevention and early intervention and not residential care. Initiatives are being introduced to identify children at risk and act accordingly, preferably by providing help in family and home community settings. For those in out of home care, there is also a move to speedier permanency. This most certainly means quicker family reunions for some and more adoptions for younger children unable to return home. Neither is there a group of young children who need to be taken out of residential care, as is the case in some other developed countries (Browne et al., 2005)

In such a context, residential care is likely to continue to play a small but significant role in children's services. But, because of expense, alleged ineffectiveness and difficulties of staffing, it will continually be replaced by foster care that is increasingly able to provide for children who are difficult to place. However, there will be a limit to what is possible, and there is a risk that difficult cases will be diverted more readily to the criminal justice system or turned away altogether rather than offered a residential placement. There will almost certainly be a growth in private residential facilities as local authorities find it difficult to make their own provision. Similarly, some specialist fostering arrangements may become more quasi-residential groups than traditional family settings, thus breaking down traditional boundaries between different types of service.

The main criteria for entry to residential care will remain difficult behaviour, especially dangers to self and others and a need for specialised services. There is no reason to believe that the size of this population will decline as psychological disturbance among juveniles is growing in the United Kingdom (Maughan, 2005); so new provision may struggle to maintain the status quo. But financial constraints will mean little growth in expensive psycho-therapeutic facilities. If there are to be regime changes, they are likely to emphasise flexibility with other

living arrangements, education, social skills and employment. Neither should the pragmatic constraints on reducing residential provision be underestimated. It may prove just as difficult to recruit specialist foster carers as it is residential workers.

The starting point of any planning, whether for systems or for individual children, is the needs of the young person and what is deemed necessary to meet them. The first question to be asked, therefore, is what does the young person and his or her family need? Does he or she need residential care, and if so what for, of what type, for how long and with what else? For those qualifying, the next question is what regime and treatment approaches are shown by research to be the most effective for meeting those needs? To answer this properly, we need a yet undeveloped validated taxonomy of need and robust evidence on the outcomes of interventions for children with similar needs. However, the research that has been discussed offers some pointers. While considerable effort may be needed to implement its suggestions, the benefits of providing residential care as part of a comprehensive service for children in need should be apparent in improved outcomes for children and enhanced job satisfaction among staff.

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APPENDIX 2

The Wagner Report 1988: *Residential Care: A Positive Choice*

Volume: I. Sinclair (ed.) *Residential Care: The Research Reviewed*

Chapter: *Children* by R.A. Parker pp. 57-124

As this had to be scanned from a book, this is attached to this report as a separate pdf file. The layout and print size might may need reformatting.

APPENDIX 3

The legislation, guidance, rules and regulations relevant to the Jersey Child Care Inquiry.