



# Double discrimination:

*Black care-experienced  
young adults  
navigating the criminal  
justice system*



Date September 2023

Believe in  
children  
 Barnardo's



## About Listen Up

Listen Up is a Black-led organisation which aims to amplify the experiences of minoritised and marginalised children in child protection, policy, and research. Our position is clear, we believe that all children and young people should be afforded care, nurture, and the appropriate safeguarding for them to thrive in all aspects of their life. We believe for children and young people to reach their maximum potential we need individuals, organisations and institutions willing to identify, acknowledge and continuously challenge the bias, racism and wider forms of discrimination impacting these groups.

Barnardo's commissioned our organisation to lead this research with the understanding that we would be unapologetic in our interpretations of the learning, whilst inviting the readership to reflect and lean into some of the discomfort that research of this nature provokes. Most importantly, that this research would remain centred in the experiences of the 22 Black young adults who took part, never shifting from their realities but instead offering exploration and understanding. All names are changed to protect the young people's identities.

As such, it was important that our research team understood some of the realities experienced by the Black young adults taking part in the research. To reflect our commitment to ensuring that this research brought understanding, insight and intersectional thinking, our team were all from Black ethnic backgrounds, and included professionals with lived experience of both the care and criminal justice systems.

The research team included Jahnine Davis (Principal Investigator), Daniel Morris (Lead Researcher), Kedrina Mulcare (Research Associate), Scott Ellis (Research Associate), Bakita Kasadha (Research Associate) and Kelechi Ukandu (Research Associate). Our team met with a total of 22 Black young adults in the secure estate across five prison sites in England, between January-April 2023. This included one focus group with multi-agency professionals, for the methodology. (Please refer to Appendix.)

## About Barnardo's

Barnardo's is the UK's largest national children's charity. In 2021-22 we supported 357,276 children, young people, parents, and carers, through a mixture of one-to-one support, school-based programmes and our children's centres and family hubs. At Barnardo's, we have a long history of supporting children in care and young people who are transitioning into independent adulthood. In 2021/22 we supported 1112 children in care and 2788 care-experienced young people. As the UK's largest voluntary fostering and adoption agency, we placed 976 children with foster families and 124 with adoptive parents. We continually explore innovative models of foster care and residential care that promote strong and long-lasting relationships.



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## Executive summary

Black children are over-represented in both the care and criminal justice systems. Latest Government data<sup>1</sup> shows that in 2022, 7% of looked-after children were black (compared with around 5% of the general population in England). Also, while all young people with experience of local authority care are more likely to serve a custodial sentence before they are 24<sup>2</sup> this is even more true for looked-after children who are Black – new linked data from the Ministry of Justice and Department for Education reveals that 9% of Black care-experienced individuals born between 1996 and 1999 had received a custodial sentence before the age of 18.<sup>3</sup>

Black children experience many inequalities in their interactions with services.<sup>4</sup> Existing research identifies a number of issues for this group including adultification bias<sup>5</sup> and over-policing which results in excessive encounters of stop and search and use of force.<sup>6</sup> Black boys and young men in custody are also more likely to face physical restraint compared to their white counterparts<sup>7</sup> and in the education system Black Caribbean boys are disproportionately represented in exclusion data.<sup>8</sup> The Lammy Review published in 2017<sup>9</sup> provided a comprehensive assessment of the treatment of and outcomes for Black and racialised adults – a key finding from this report was that racially marginalised groups, including care leavers are over-represented in the criminal justice system.



<sup>1</sup> Children looked after in England including adoptions, Reporting year 2022 – Explore education statistics – GOV.UK ([explore-education-statistics.service.gov.uk](https://explore-education-statistics.service.gov.uk))

<sup>2</sup> The education background of looked-after children who interact with the criminal justice system - Office for National Statistics ([ons.gov.uk](https://www.ons.gov.uk))

<sup>3</sup> Hunter, K., Francis, B. and Fitzpatrick, C. (2023) 'Care Experience, Ethnicity and Youth Justice Involvement: Key Trends and Policy Implications' forthcoming

<sup>4</sup> The experiences of black and mixed heritage boys in the youth justice system. A thematic inspection by HM Inspectorate of Probation October 2021. Retrieved from <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/10/The-experiences-of-black-and-mixed-heritage-boys-in-the-youth-justice-system-thematic-report-v1.0.pdf>

<sup>5</sup> Listen Up ([www.listenupresearch.org](https://www.listenupresearch.org)) defines Adultification Bias as 'The concept of adultification is when notions of innocence and vulnerability are not afforded to certain children. This is determined by people and institutions who hold power over children and young people.' When adultification occurs outside of the home it is always founded within discrimination and bias. There are various definitions of adultification, all relate to a child's personal characteristics, socio-economic influences and/or their lived experiences. Regardless of the context in which adultification takes place, the impact results in children's rights being either diminished or overlooked.

<sup>6</sup> <https://www.crestadvisory.com/post/forgotten-voices-policing-stop-and-search-and-the-perspectives-of-black-children>

<sup>7</sup> Lammy, D. (2017). Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian, and Minority Ethnic individuals in the criminal justice system. Retrieved from <https://www.gov.uk/government/publications/lammy-review-final-report>

<sup>8</sup> Steve Strand (2021) Commission on race and ethnic disparities. Retrieved from <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities-supporting-research/ethnic-socio-economic-and-sex-inequalities-in-educational-achievement-at-age-16-by-professor-steve-strand#key-findings>

<sup>9</sup> Lammy Review: final report - GOV.UK ([www.gov.uk](https://www.gov.uk))



Inequalities are exacerbated for those who are Black, care-experienced and in the criminal justice system. While the experience of this intersection will be different for everyone, aspects of identity are interconnected and can mutually influence one another, shaping experiences and opportunities in society, from an interpersonal, structural, and institutional level. This means that often these three dimensions of identity intersect and interact to create a unique set of experiences and challenges. Such challenges include those associated with being from a Black ethnic background where racial profiling, stereotypes and systemic racism can feature through each aspect of a person's life. It also includes challenges associated with being care-experienced such as disrupted family relationships, trauma, and limited support networks as well as those associated with being in the criminal justice system where research shows that probation service users are more likely to be unemployed more likely to serve have poor basic skills (literacy, numeracy) compared to the general population.<sup>10</sup>

These identities are not separate or independent, but rather intertwined, and can mean that discrimination or disadvantages based on one aspect of identity can intersect with and intensify discrimination or

disadvantages based on other aspects of identity. However, despite the likelihood that Black care-experienced young people in the criminal justice system are facing multiple disadvantages there is little research on this issue.

This research therefore takes an in-depth look at the interplay between being Black, being care-experienced and having experience of the criminal justice system. Through 22 interviews with Black care-experienced young people aged 18-25 in the criminal justice system the research aims to capture the voices of this marginalised group of young people, placing them firmly at the centre. In doing this, the report aims to not hide and dilute what the researchers were told, but to value and build on the words and emotions shared to call for changes to systems, culture, and practice.

It is critically important that policy makers learn from those with lived experience who should play a vital role in shaping the policies that define their lives. What became abundantly obvious during the research was the richness in resources available to decision makers when they listen directly to those with lived experience, and the importance to harness this to achieving meaningful and long-lasting change.

<sup>10</sup> <https://www.justiceinspectories.gov.uk/hmiprobation/research/the-evidence-base-probation/specific-areas-of-delivery/ete/>



## Key findings from the research

Evidence from the 22 participants found that Black care-experienced young adults experience racism, wider forms of discrimination, exclusion, and isolation in their interactions with services. Key findings from the interviews include:

**15/22**  
reported irregular social care support

- 1. Professionals held low expectations for Black children and support from professional was often inconsistent.** There were limited examples where professionals were aware of young people's aspirations and pro-actively supported these aspects of their development. 15 out of the 22 young people we spoke to reported inconsistent and fragmented support from their social workers.

**20/22**  
experienced racism

- 2. Systemic racism provided the framework for discriminatory practice and differential treatment of Black care-experienced young people.** 20 out of 22 disclosed experiences of racism and or differential treatment based on their race and ethnicity: in care settings, throughout their education and/or in the criminal justice system.

**Only 4/22**  
offered mental health support

- 3. The mental wellbeing of Black care-experienced children was not paramount.** Despite experiences of trauma the offer of mental health support was scarce. Just four out of 22 participants were offered or accessed mental health support despite most participants sharing experiences of direct traumatic experiences throughout childhood, adolescence, and adulthood.

**9/22**  
excluded from secondary school

- 4. The impact of past exclusion and marginalisation within society can perpetuate the cycle of vulnerable children entering the criminal justice system.** This is particularly evident for Black children. Nearly half of the participants (nine out of 22) were excluded from secondary education while four out of 22 had attended a Pupil Referral Unit (PRU) following the breakdown of mainstream education.

**0/22**  
felt that their care experience was considered

- 5. Young people's care status was rarely considered as a vulnerability factor particularly when navigating the criminal justice system.** This was particularly evident during the court process and in prisons.

**9 / 10**  
reported negatively on their resettlement experience

- 6. Resettlement processes were inconsiderate of individual needs.** Restricted resources and a highly punitive structure made this element more challenging for Black care-experienced young adults to reintegrate into the community. Nine out of 10 young people interviewed, who had been through a resettlement process, reported negative experiences.



# Recommendations for change

To improve the life chances of young people, such as those interviewed for this research, it is vital that change is introduced across the system. Change should be aimed at better supporting Black children throughout their time in the care system, as well as ensuring that those who do come into contact with the criminal justice system are treated fairly and do not face double discrimination based on being both Black and having a history of being in care.

## Key changes which are needed are:

### 1. Improve the experience of Black children in foster care.

**foster care.** It is clear from our research that improving outcomes for care-experienced Black children in custody must begin with improving their overall care experience and ensuring that Black children who cannot live with their birth parents receive loving care which respects and affirms their identity. *To help achieve this the Department for Education should develop and fund a Black Foster Care Network. This body would have as its aim to increase the number of high-quality carers within the UK who have an understanding of the needs of Black children in the care system.*

### 2. Improve access to mental health support for Black children in care.

A clear finding from the research was that many of the participants experienced significant past trauma in their lives and the lack of support to help them recover was a significant contributing factor to the challenges these young people continued to face. *The Department for Education and the Department for Health should therefore work together to improve mental health support for all children in and leaving care with a specific emphasis on how this support can be delivered in a culturally sensitive way.*

### 3. Take action to reduce the over-criminalisation of children in the care system.

Participants in this research reported that they felt they were significantly more likely to enter the criminal justice system than their non-care-experienced peers, which is in keeping with findings from other research in this area. Greater focus needs to be given by Government and its agencies to reduce the over-criminalisation of children in care in the criminal justice system. This should involve *placing a statutory duty on local authorities to work with partners to prevent the unnecessary criminalisation of children in care and care leavers, including a requirement to develop local protocols to help achieve this.*

### 4. Improve understanding across agencies of the needs of children in care and care-experienced young people as well as providing training on how to better address these needs.

The research highlighted how a lack of understanding in many agencies of what it means to be care-experienced meant that practices of agencies (including those within the criminal justice system) rarely took into account the specific challenges this group can face. To help tackle this *the Department for Education should extend corporate parenting principles to agencies involved in the criminal justice system including police, courts, and prisons. Professionals should be provided with specialised training to improve understanding of how what this will mean in practice.*

### 5. There must be a renewed emphasis on implementing reform aimed at tackling institutional racism within the criminal justice system.

Given the evidence from our interviews that young Black people involved in the criminal justice system still face significant challenges with institutional racism in the system, and in light of the comprehensive report by David Lammy published in 2017, we are concerned that insufficient changes have been made to improve the system. We are calling on the Government to *publish an updated progress report on how far it has implemented the recommendations of David Lammy's independent Review into the treatment of and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system. This should include a clear action plan on how it intends to take forward the recommendations in that report which have yet to be progressed.*



## Section 1: Key findings

### We cannot hide the obvious: race, racism and differential treatment

The clear finding from our research interviews was that while a yearning to be loved, accepted, held, nurtured, and seen is a reality for many care-experienced children and young adults for this group, there was a 'knowing' that being Black further reduced the possibility of experiencing such care. Instead, rejection, humiliation, criminalisation, adultification, low aspirations and misinterpretations about their behaviour were the common experiences for this cohort. Many of them were left to navigate the world alone, with a sober realisation that they are not going to be protected and held in the way they deserve and desire.

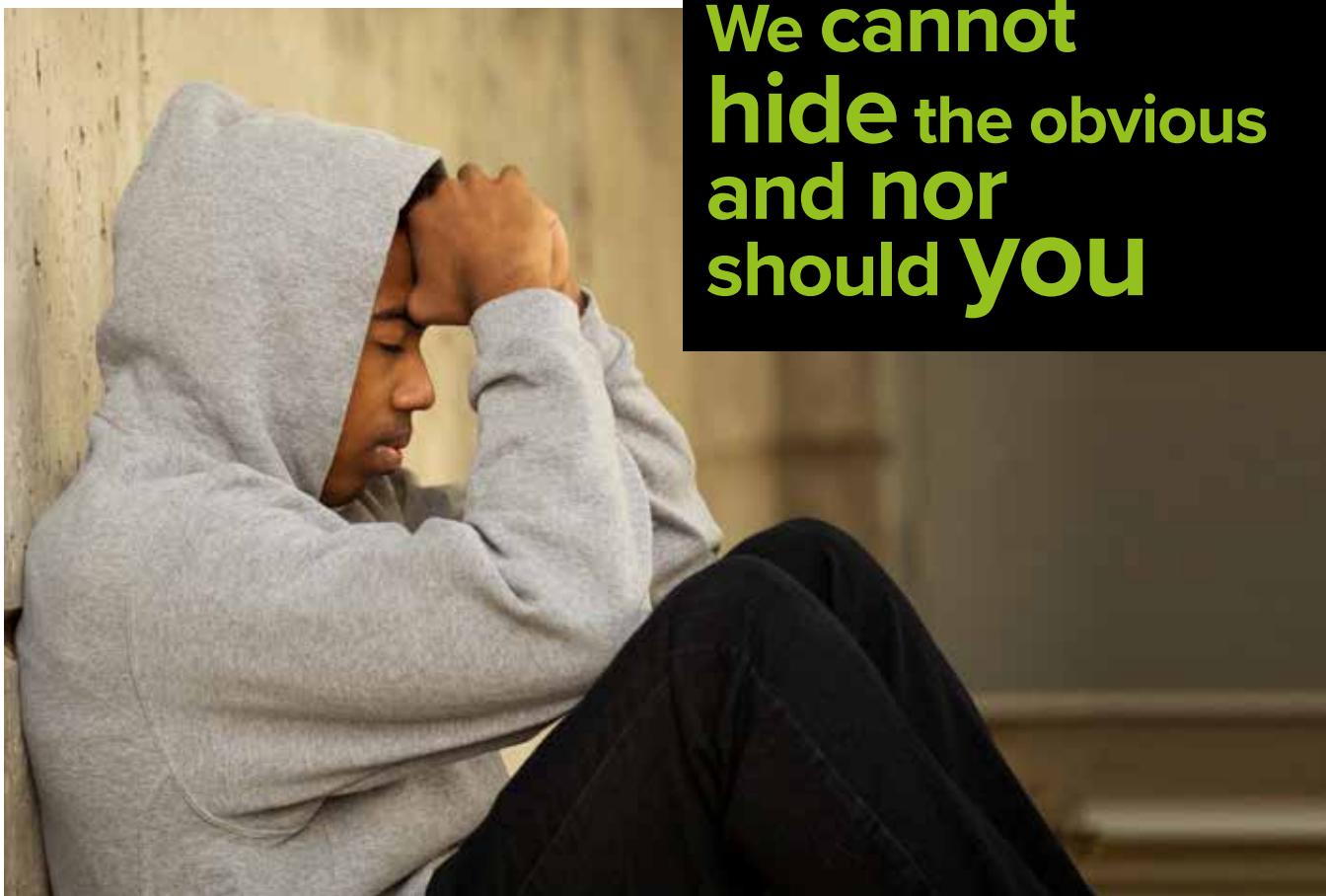
For these young people, racism was the overarching precondition positioning their individual and collective experiences, forever reminding them that they will be treated and perceived differently by the professionals who have and had a duty to safeguard, protect and support them. Whilst being care-experienced in and of itself exacerbates a person's vulnerability, being Black increases it even further.

Therefore, to understand the reality of what it is to be Black, care-experienced and in the criminal justice system, we cannot deflect from the elephant in the room. The starting point must be to acknowledge and appreciate the impact racism has on a personal, structural, and institutional level. This research will evidence countless examples of racism and how it featured, whether in residential settings, foster care placements, education, mental health provision, prison, and or resettlement and how it consequently impacts on a sense of purpose, belonging and safety.

As you read this report, we invite you to move beyond the consideration of 'unconscious bias' and instead to join us in accepting that racism can be conscious in thought, behaviour and decision-making. This report is a call to action, for individuals, organisations, and institutions to address racism, and to ensure anti-discriminatory practice is resourced and prioritised, not reactively but pro-actively.

Throughout this report, each section will include examples of how racial discrimination and experiences of differential treatment impacted the experiences of the Black young people in this research.

**We cannot  
hide the obvious  
and nor  
should you**





## Rejection and Displacement

For those who shared their journeys with us, first interactions with the care system varied. The age that each participant entered care ranged from two-weeks-old to mid-teens. Regardless of the route into care, being displaced from family, friends and perceived normality is likely to evoke a range of emotions. Those entering the care system at younger ages did so due to experiences of harm and/or loss. In comparison, those entering the system in their teens cited their own behaviours as the cause of family breakdown even though they had experienced vulnerability. Concerningly there were four young people who cannot recall the reasons for their transition into care.

*'No-one was explaining that to me, so I was just like, I'm getting put into care, nobody gives me the in depth 'this is why you're going into care, this is what's happening, and this is the plan', do you get what I'm trying to say, so I just got slapped into care from there, and that was it.'*

– Tom (21)

Children placed in care are much more likely to experience poor mental and physical health compared to those without care experience.<sup>11</sup> Several of the young Black men shared that their transition into care was abrupt with little professional care or concern about their wellbeing.<sup>12</sup> For example, Victor, a 21-year-old male who was a victim of youth violence (harm outside of the home) was placed into foster placement although there were no apparent concerns related to parental or familial harm. It was only when Victor was being discharged from hospital, he was informed that he would not be returning to his family home. Prior to this Victor had lived at home from birth without any reported concerns:

*'...somehow Social Services are now involved I'm gang affiliated, this, this, that. So, nothing even happened, I think, but when I was coming out of hospital that's when they let me know oh, we're going to be putting you into care. Obviously, I didn't understand it init.'*

– Victor (21)

<sup>11</sup> NSPCC (2023) Looked After Children <https://learning.nspcc.org.uk/children-and-families-at-risk/looked-after-children>

<sup>12</sup> Selwyn, J et al (2018) Our Lives, Our Care Looked after children's views on their wellbeing [https://coramvoice.org.uk/wp-content/uploads/2019/08/bright\\_spots\\_-\\_wales\\_report\\_-\\_final\\_1.11.18\\_english.pdf](https://coramvoice.org.uk/wp-content/uploads/2019/08/bright_spots_-_wales_report_-_final_1.11.18_english.pdf)



### Why treat me differently?

Isolation, detachment, and displacement exacerbated the experiences of the young adults we spoke to. Where participants were removed from their childhood home, some were placed in the homes of foster carers and others in residential children's homes, but it is unclear which factors determined the type of placement provided. Some described feeling isolated either because their foster placements were away from where they had grown up, because they were frequently moved between placement or because they did not feel safe in their placement due to differential treatment:

*'When I was there, I think there was those around me, we didn't get treated the same as them, ever. ...they would react to anything we'd done felt different to the way they were reacting with other [white] kids. The other guy could start screaming and shouting and that and they would just say, 'no, it's not, chill out.' But with us, they'd call the police, shouting at us and that, getting involved in everything, you know.'*

– Daniel (23)

Having grown up in diverse inner-city environments, being placed in rural white dominant communities can be a culture shock for Black children.<sup>13</sup> Yet local authorities have a duty to prioritise seeking placements close to the child's home causing minimal disruption to their networks, education and/or employment.<sup>14</sup> The young adults shared that they felt care home staff treated white children with more compassion and empathy compared to Black children. Black children, according to the young people interviewed, were seen as a threat and believed that care staff often involved police unnecessarily as a disciplinary measure. This increased contact between Black young people and

the police heightens chances of criminalisation,<sup>15</sup> as a result earlier than their White peers, care-experienced or not.

### Can you see me?

Isolation was exacerbated due to a lack of consideration of Black children's identity and cultural needs among social workers, foster carers and/or residential staff. For example, some participants shared not having access to appropriate skin and hair products or cultural foods where they were placed, a similar finding in other research:<sup>16</sup>

*'...so maybe even like the food that we're eating it's not really, yeah, how we really eat, you get it, so maybe in that sense, maybe even the products that they, like skincare products that they give you because obviously they buy all these things, so you have to basically tell them, 'I need cream, I need xxx', so whatever and they go buy it.'*

– Timoty (24)

Without appropriate personal care items or access to cultural foods, Black children found it difficult to settle into placements. When young people have to request necessities, this presents an additional barrier to them feeling safe, understood and cared for. The turbulent feelings endured through these instances were exacerbated by frequently moving between placements, especially where there was little or no notice ahead of time. These circumstances highlight and reinforce 'difference' - Black children looked different, felt different and were treated differently.

### I need to feel safe

At times carers struggled to prepare Black children for the environments they were expected to navigate. Some young adults felt unsupported when they were

<sup>13</sup> Hunter, KE (2019) Institutionalised Criminalisation: *Black and Minority Ethnic Children and Looked After Children in the Youth Justice System in England and Wales*. PhD thesis, University of Liverpool.

<sup>14</sup> Foster, D (2021) *Looked after children: out of area, unregulated and unregistered accommodation (England)* <https://researchbriefings.files.parliament.uk/documents/CBP-7560/CBP-7560.pdf>

<sup>15</sup> Casey (2023). An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service. <https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>

<sup>16</sup> The Black Care Experience report (2012) <https://static1.squarespace.com/static/624ecfb1746ba23d95da9888/t/62500e47d8d67536e75c13b/1649413713648/The+Black+Care+Experience+2021+Report+Updated.pdf>



victims of racist abuse. AJ, for example, shared how he felt unsafe and did not feel supported by his carers when reporting the racial abuse he experienced (some of which they had witnessed directly):

*'They basically threatened me, and they said, 'oh like if we see you in here again, we're going to deal with you' [...] they were pointing to a tree over there, they were saying look, 'there's a tree over there mate, that's going to be you up there', they were all laughing and stuff.'*

– AJ (18)

In another example, Dee was placed with a white ethnic family and was the only foster child from a Black ethnic background. For Dee, this was most challenging, as whilst she was trying to come to an understanding about her experience at home, she was also confronted with an environment that exacerbated her feelings of being unsafe. Subsequently, Dee's placement broke down as she felt that her foster family did not fully understand her needs as a Black girl and instead interpreted her behaviour as disruptive and problematic, without consideration of the trauma she had experienced:

*'They didn't believe me what I said, social worker and everything. Nobody believed what I was saying but I just left it at that I thought as long as I'm here now.'*

– Dee (25)

A few months after leaving her placement, Dee was sent to prison for drug related offences, prior to this, Dee had no criminal record. This highlights the importance of carers being confident, courageous, and able to challenge and support Black children in their care. It is important for victims of abuse to be provided appropriate support to limit the emotional impact of these experiences. Carers of Black children need the confidence and skills to support Black children in circumstances where they are subject to racial abuse. In the absence of appropriate support, Black children are required to internalise and manage these experiences alone:

*'Yeah, you see it every day innit like racism, like you see it every day, like yeah, but it's like you learn how to deal, like not deal with it but it's just it's normal now you know what I mean.'*

– Dee (25)

The young adults shared that experiences of racism became normalised and being unprepared to navigate these encounters, they developed coping mechanisms to support them to manage racism in all its facets.

The young people we spoke to experienced rejection and isolation across many aspects of their lives. Experiences that may have been first encountered through entering the care system were compounded when subjected to similar experiences navigating the education system.



## Inconsistent and Fragmented Education

For Black care-experienced young people in the criminal justice system, experiences of fragmented and inconsistent access to education was a consistent feature. Nine out of 22 participants were permanently excluded from secondary education, while many others were frequently moved to new locations and environments which disrupted their schooling and established relationships. Black children encounter different experiences in education compared to their white counterparts.<sup>17</sup> They are overrepresented in exclusion data, more likely to be diagnosed with Special Educational Needs and Disabilities (SEND) without appropriate support<sup>18</sup> and are often placed in classes below their abilities.<sup>19</sup> It is important to acknowledge the role institutional racism contributes to these differences that impact outcomes.

### Disrupted education

Participants described difficulties maintaining consistent educational placements while in care due to frequent changes in location, and differential treatment. For example, when aged 13, Kamari was moved to five different placements in a two-year period. Moving to multiple placements often at little or no notice was a common experience for the participants in this research which disrupted their educational experience:

*'After that moving I just messed up my life innit because uprooted me from school and all these things and that. So, I went to xxx, found a new school, I was in Year 8 right up until Year 9, I got kicked out, I got sent to one of those PRUs...'*

– Kamari (20)

For care-experienced young people, being moved into new environments distances them from established networks and requires them to re-establish them



again. This process is destabilising and additionally challenging for Black children when placed in less diverse spaces.<sup>20</sup> Successful integration into new communities relies upon a young person being able to assimilate into a new family, school, and friendships with minimal abrasion. This makes integration particularly challenging for Black care-experienced young people as they are often placed in majority white, monocultural communities due to a lack of ethnically matched placements available for Black children.<sup>21</sup> White children placed with families that match their ethnicity can integrate into their families and inherit social bonds to religious institutions and schools with less difficulty.<sup>22</sup> Having to repeat this process regularly diminishes their opportunity to maximise their abilities.

Black care-experienced children are often treated with little empathy considering their experiences of displacement, rejection, and trauma. We observed a lack of understanding around the needs of Black children placed in monocultural communities. It was noticeable that participants shared limited examples of professionals or care providers advocating on their behalf. Understanding of potential triggers, behaviour patterns or behaviour management tools were absent. This places responsibility on children to navigate challenging spaces while managing the traumas associated with being Black and care-experienced.

<sup>17</sup> Coard, B., 1971. How the West Indian Child is Made Educationally Subnormal in the British School System: The Scandal of the Black Child in Schools in Britain.

<sup>18</sup> Strand, S. and Lindorff, A., 2018. Ethnic disproportionality in the identification of Special Educational Needs (SEN) in England: Extent, causes and consequences.

<sup>19</sup> Coard, B., 1971. How the West Indian Child is Made Educationally Subnormal in the British School System: The Scandal of the Black Child in Schools in Britain.

<sup>20</sup> SCIE (2004) The needs of foster children from black and minority ethnic backgrounds <https://www.scie.org.uk/publications/guides/guide07/needs/minority/>

<sup>21</sup> TACT BLM Action Plan <https://www.tactcare.org.uk/black-lives-matter/#:~:text=As%20of%2031%20March%202019,carers%20from%20a%2BAME%20background.>

<sup>22</sup> Bondy, J (2019) **The Children of Immigrants' Bonding to School: Examining the Roles of Assimilation, Gender, Race, Ethnicity, and Social Bonds** Urban Education Volume 54, Issue 4, April 2019, Pages 592-622 <https://doi.org/10.1177/0042085916628609>



## Misunderstanding Behaviours

Due to a range of factors including low-self-esteem and internalised low-expectations, children in care may find it hard when challenged.<sup>23</sup> It is important for professionals working with this group to understand and be confident in managing these presentations should they occur. Perceived defiant behaviour could often be rooted in much deeper feelings of vulnerability. Black care-experienced young people are often not afforded considered responses to their behaviours and are judged on their presentation and not their needs:

*'So, if I'm in a class trying to get me to do English work, I can't do it anyway, where I'm not calling the teacher to come help me, because in my head that makes me look like an idiot, yeah, you get it. So, see what I just do, yeah, I just, probably tip the table over.... And then all they used to just do is expel me, you know like that, but the thing is I'm in school, yeah, and they never asked me what the problem is, yeah, that's what they're just doing, they're just expelling me, expelling me, you know like that.'*

– Tyrese (20)

Looked-after children should be provided with suitable interventions that focus on supporting their emotional literacy and behaviours. The participants' experiences demonstrate that professionals often failed to recognise emotional vulnerability amongst this cohort.<sup>24</sup> This means that professionals are unable to fully consider Black care-experienced young people's needs when providing support or interventions. As a result, behaviour presentations can be misunderstood as disruptive rather than an indication of emotional need.

This is important as care-experienced children can navigate the education system successfully once provided with consistent and trauma-informed support systems.<sup>25</sup> Considering the additional barriers care-experienced children face navigating education, it might be necessary to reconsider what good attainment looks like for this group.

Results at GCSE level are often used as an indication of attainment levels for children in England, Wales and Northern Ireland. Care-experienced children underperform compared to their non-looked after counterparts - 7.2% of looked-after children achieved the grade 5 'good pass' threshold in English and mathematics GCSEs, compared to 40.1% of non-looked-after children; while children in residential care at age 16 scored over six grades less at GCSE than those in kinship or foster care.<sup>26</sup> Formal education should not be the only indication of attainment or progress for care-experienced children as navigating complex systems provides valuable personal development skills.<sup>27</sup> Despite this group's underachievement in formal education, the participants were articulate, bright, and emotionally mature. This demonstrates learning and growth through their lived experiences.

The young adults were stigmatised by professionals who they said showed little or no curiosity in exploring what their behaviours were indicating. Some examples were shared which demonstrate that when provided appropriate support mechanisms, care-experienced young people could excel educationally. However, there appeared to be a lack of aspiration for Black care-experienced young people in some circumstances which arguably contributed to low attainment in educational attainment outcomes.

Many of the participants (20 out of the 22) felt they were treated differently based on their ethnicity. They felt this resulted in harsher and more punitive responses to Black young people's behaviours

<sup>23</sup> Mannay,D et al (2017) British Educational Research Journal Vol. 43, No. 4, August 2017, pp. 683–699 DOI: <https://bera-journals.onlinelibrary.wiley.com/doi/10.1002/berj.3283>

<sup>24</sup> Listen Up ([www.listenupresearch.org](http://www.listenupresearch.org)) defines Adultification Bias as 'The concept of adultification is when notions of innocence and vulnerability are not afforded to certain children. This is determined by people and institutions who hold power over children and young people. When adultification occurs outside of the home it is always founded within discrimination and bias. There are various definitions of adultification, all relate to a child's personal characteristics, socio-economic influences and/or their lived experiences. Regardless of the context in which adultification takes place, the impact results in children's rights being either diminished or overlooked.'

<sup>25</sup> Mannay,D et al (2017) British Educational Research Journal Vol. 43, No. 4, August 2017, pp. 683–699 DOI: <https://bera-journals.onlinelibrary.wiley.com/doi/10.1002/berj.3283>

<sup>26</sup> <https://committees.parliament.uk/work/1111/childrens-homes/news/171939/host-of-indefensible-system-failings-damaging-educational-and-employment-outcomes-for-children-in-care/>

<sup>27</sup> Kenny, K (2023) The educational experiences of children in care across five decades: A new perspective on the education of looked after children in the UK Adoption & Fostering 2023, Vol. 47(1) 22–39 <http://dx.doi.org/10.1177/03085759231157415>



compared to their peers. They believed that prejudiced perceptions of Black children's behaviours contributed to excessive actions from professionals which often resulted in disciplinary actions or exclusion:

*'Again, crazy because it's like a culture shock init, to go into say like, obviously going to school I lasted two weeks, do you get what I'm trying to say, like argument with a boy and that was it, excluded, do you get what I'm trying to say?'*

– Tom (21)

Participants were often met with punitive responses to their behaviour which erased their experiences of vulnerability. This was evident when Tom moved to

a rural community and was permanently excluded from school following a single disagreement with another pupil. Black children are more likely to be seen as more aggressive and less vulnerable compared to their peers.<sup>28</sup> It is important to consider the ways prejudice and discrimination contribute to disproportionate outcomes in exclusion data for Black children.

Lower self-esteem and behaviour problems can negatively impact on transitions for care-experienced children, and their pre-care experiences of abuse and neglect can result in less prosocial, more aggressive, disruptive or withdrawn behaviour.<sup>29</sup> This highlights the importance for Black children to be placed in environments that can fully meet their development needs.



<sup>28</sup> Davis, J., and Marsh, N. (2020). Boys to men: the cost of 'adultification' in safeguarding responses to Black boys. *Critical and Radical Social Work* 8, 2, 255-259, available from: <<https://doi.org/10.1332/204986020X15945756023543>>

<sup>29</sup> Drew, H., Banerjee, R. Supporting the education and well-being of children who are looked-after: what is the role of the virtual school? *Eur J Psychol Educ* 34, 101-121 (2019). <https://doi.org/10.1007/s10212-018-0374-0>



## Low Aspirations and No Expectations

### You should want more for me

Those care-experienced participants who were placed in environments with structure and staff who pushed children to maximise their potential, successfully accessed education. This occurred whether they were keen on education or reluctant to attend school.

*...when I was with my auntie, obviously my auntie was structured, innit, like it's family innit, man. So, I was comfortable when I was with my auntie, so I was going to school, I went to school, I went to college, studying well in college, passed all my shit. And here, as soon as I went into my semi-independent, college was done, I didn't even go to my second year at college, didn't really do fuck all really.*

– Marvin (20)

However, many participants shared a view that care home staff, social workers, and prison staff had low expectations for them. They reported inconsistent engagement in education, employment, or training opportunities. Prior to entering the care system, most participants held clear aspirations about future goals. This ranged from wanting careers as entrepreneurs, engineers, accountants, construction workers, musicians, and professional sports players. However, there was little evidence of their aspirations being nurtured, encouraged, or supported while in the care or prison systems.

### Now you know, what are you going to do?

Participants shared goals and aspirations with care providers and social workers which rarely resulted in young people being supported to develop skills and aspirations outside of traditional routes. While there were attempts to engage young people in education, apprenticeships, or employment there was little focus on extra-curricular activities that might contribute to their personal development:

*'I did share them. The same thing I'm saying now, I said it a couple of years ago, but it didn't help me still, they didn't help me.'*

– Malcom (20)

Much of care-experienced young people's personal development while in care occurs outside of formal education.<sup>30</sup> In the absence of requested support, care-experienced young people seek opportunities away from professional involvement. This leaves young people seeking support from alternative spaces which could have negative or positive outcomes. Previous research highlights that looked-after children prefer to access informal support from networks where they have developed genuine relationships rather than with professionals.<sup>31</sup> However, this could be a response based on the lack of support provided historically. This further demonstrates the importance for professional support to be genuine and consistent throughout the care journey.

Rejection or limited support encourages care-experienced young people to become increasingly independent. The increased reliance on self, became most evident while in semi-supported accommodation. By this phase of their care journey most participants neglected their previously held aspirations while prioritising practical survival tasks:

*'I didn't really have ambitions when I was in care, I just had priorities, I needed to eat, I needed clothes, so I didn't really have ambitions like that, no.'*

– Toby (24)

We observed internalised adultification<sup>32</sup> which could be a result of the lack of support provided by professionals. However, the support provided often focused on managing limited resources than raising aspirations:

*'I was supported like financially wise but not for the goals and all the stuff that I wanted to do, no'*

– Dee (25)

<sup>30</sup> Mannay,D et al (2017) British Educational Research Journal Vol. 43, No. 4, August 2017, pp. 683–699 DOI: 10.1002/berj.3283

<sup>31</sup> Driscoll,J (2013) CHILDREN & SOCIETY VOLUME 27, (2013) pp. 139–149 DOI:10.1111/j.1099-0860.2011.00388.x

<sup>32</sup> Jahnine Davis (2022) Adultification bias within child protection and safeguarding. Retrieved from <https://www.justiceinspectortates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf>



This suggests that the participants were not provided with individualised support packages that advanced their interests and skills. This further demonstrates areas where care providers should do more to maximise access to opportunity and positive networks. Children in care should be afforded the same opportunities compared to their peers who live with their families. Throughout this research participants experiences have fallen short of this metric. Amy's experience added further to the impact and risks related to her internalisation of adultification. When sharing her experiences she refused to blame her mother and instead blamed herself for most negative experiences which had happened in her life:

*'I did it because I was so greedy, grown men made me pick up a parcel basically. He taught me things I shouldn't have known but at the end of the day it was my fault, I should've known better. I've never been here for anybody else but myself'*

– Amy (24)

Like many of the young Black men, internalised adultification was present in how Amy considered her experiences of harm and abuse. Although she was a child when her exploitation started, she perceived this as her choice, with little to no consideration of her vulnerability.

Like Amy, Black young women who experience trauma or other adversities may internalise their responsibilities because of victim-blaming narratives.<sup>33</sup> Society's perceptions and stereotypes about Black girlhood can contribute to blaming those impacted by harm rather than addressing underlying factors.<sup>34</sup> This can lead to the expectation that Black girls should be responsible for avoiding or overcoming violence or trauma, placing the burden on them rather than focusing on prevention or support.<sup>35</sup>

Experiences of punitive responses, exclusion and independence draws parallels in Black care-experienced young adults' interactions with the criminal justice system. The following section will explore how adultification bias can present and potentially influence professional decision making and judgements.



<sup>33</sup> Jahnine Davis (2022) Adultification bias within child protection and safeguarding. Retrieved from <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf>

<sup>34</sup> Jahnine Davis (2022) Adultification bias within child protection and safeguarding. Retrieved from <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf>

<sup>35</sup> Jahnine Davis (2022) Adultification bias within child protection and safeguarding. Retrieved from <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf>



## Criminalisation and Adultification

### I need care...

Experiences of oversurveillance and criminalisation were commonplace for participants. Numerous examples were provided about what life is like for Black care-experienced children and young adults, in particular criminalisation both within the care and criminal justice systems.<sup>36</sup>

For example, Tom shared how care home staff used the police to enact discipline when he left his placement without permission:

*'I feel like the care system is exactly like the jail system, and the police system [...], do you get what I'm trying to say, once you go into the care system it's like they know what really you're about to go down [...] if anything they'll slightly nudge you, quietly [towards] that back door kind of thing, trying to nudge you to that way, because you know [the carers] going to be like, like if you're telling them I'm going out, walking out of the house [...] then [they] just call [the] police say, 'no problem you're going to come back anyway...''*

– Tom (21)

The care and criminal system bore similarities in how they functioned. Experiences of over surveillance were exacerbated by ways in which staff within the care system deployed police as a tool of discipline. These interactions with the police were unwelcome and were reminiscent of previous experiences of stop and search.<sup>37</sup> Young people found the use of police intervention by care home staff excessive at times as these exposed Black children to potential harm.

Amy (24) shared how her foster carers contacted the police when she went missing, but the placement failed to share with the police the reason was due to disclosures of harm in her foster care placement. Therefore, Amy felt that she was seen and treated as

the 'issue' and anticipated that authorities would not respond to her disclosure: *'they didn't do anything because they didn't believe me.'* Rather than professionals viewing Amy as a child who was experiencing harm in her care setting, they focused on the missing episode in isolation of the core issue.

Black care-experienced children are more likely to go missing than any other ethnic group and are less likely to have a risk/vulnerability flag against their case in comparison to their white peers.<sup>38</sup> This suggests that even with increased vulnerability due to being care-experienced, the intersection of race/racism and bias can determine how professionals identify vulnerability and respond to the needs of Black children. This 'double criminalisation' increases their vulnerability when their requests for help are ignored and/or viewed as unwarranted. Although professionals (including carers) have a duty to report missing children when their whereabouts are unknown, there is little flexibility provided at times.<sup>39</sup> In this report Black care-experienced children were rarely afforded the scope to step outside of boundaries without police intervention. This contrasts to the experiences of children who live with their families where it could be argued police intervention is less likely to be applied in similar circumstances.

This oversurveillance is consistent with the punitive responses from professionals that Black care-experienced young people have been accustomed to. This erodes trust and fosters independence, making this group less likely to share their vulnerabilities with professionals.

### Black kids are vulnerable too!

In this report Black participants shared consistent experiences of being treated differently by professionals compared to their white peers. There is wider research and literature which highlights this disparity, particularly how stereotypes of Black children being strong and

<sup>36</sup> Shaw, J & Greenshaw, S (2020) The Criminalisation and Exploitation of Children in Care Multi-Agency Perspectives <https://doi.org/10.4324/9780429399077>

<sup>37</sup> Home Office. (2021). Police powers and procedures, England and Wales - year ending 31 March 2020.

<https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2020>

<sup>38</sup> [https://www.missingpeople.org.uk/wp-content/uploads/2023/03/Missing\\_Ethnicity-report.pdf](https://www.missingpeople.org.uk/wp-content/uploads/2023/03/Missing_Ethnicity-report.pdf)

<sup>39</sup> Missing People (2021) Children's views on being reported missing from care. Retrieved from [https://www.missingpeople.org.uk/wp-content/uploads/2021/04/Childrens\\_views\\_on\\_being\\_reported\\_missing\\_from\\_care.pdf](https://www.missingpeople.org.uk/wp-content/uploads/2021/04/Childrens_views_on_being_reported_missing_from_care.pdf)



resilient can result in adultification bias.<sup>40</sup> The young people's vulnerabilities were rarely responded to but severe response to their behaviours were frequently experienced:

*'Yeah. Like I cannot lie, it is the reality still. Because I remember, yeah, like them times when I was in secure, yeah, it's like obviously there was white youths there and that as well, obviously because we're all young they're feeling kind of, like they're more fragile than man, like they're just seeing man as a blackie that time, I'm seeing them like, they're kind of like showing them more attention innit? Seeing if their alright, you know what I saying? And then it's just assuming man's just on a mad ting, like you get it? Literally.'*

– D (22)

When Black children's vulnerabilities are overlooked by services it is often a result of adultification bias. This bias manifests as perceiving and treating Black children and adolescents as more mature, 'streetwise' and responsible than their non-Black peers. The Adultification of Black children and teenagers must be understood as a manifestation of racism, as it is influenced by racial stereotypes and biases steeped in harmful narratives about Black childhood. Being prematurely perceived as older and more adult-like results in unfair treatment, harsher discipline, and heightened expectations placed upon them:<sup>41</sup>

*'Oh, a little white kid with glasses in jail, they might feel sorry for them, but then they might see us and be like, oh they're used to it because they're loud and lairy and they've got friends on the wing, little stuff like that. Like it's making a*

*judgement, it's pre-judging you innit.'*

– Simon (23)

Experiences of racism whether subtle or overt were normalised for Black care-experienced young adults. They have experienced micro and macro aggressions, overt and covert racism in their interactions of care, education, and criminal justice systems. This is worsened when located in prisons with majority white staff. A professional who attended our focus group acknowledged the different treatment Black young adults receive when in prison.

Systemic racism facilitates a system where some groups face disproportionate experiences of discrimination, prejudice, and racism.<sup>42</sup> From the focus group staff shared that they do not receive training that specifically focusses on either care-experienced young people or Black and minoritised young people. Yet Black children are overrepresented in the prison system. Without imbedding relevant training and anti-racist structures, staff are unable to prevent their own biases and stereotypes clouding their judgement:

*'It is those cultural differences of how a white member of staff might react to a Black young adult who's been involved in an act of violence for example all their perceiving they're going to be involved in an act of violence because they present more heightened and they're sort of more animated when they're talking, and maybe it's easier to read the social cues from someone of a similar cultural background to them so actually they're perceiving that as actually this boy is about to kick off but actually he's not he's just expressing himself.'*

– Professional 2

<sup>40</sup> Listen Up ([www.listenupresearch.org](http://www.listenupresearch.org)) defines Adultification Bias as 'The concept of adultification is when notions of innocence and vulnerability are not afforded to certain children. This is determined by people and institutions who hold power over children and young people. When adultification occurs outside of the home it is always founded within discrimination and bias. There are various definitions of adultification, all relate to a child's personal characteristics, socio-economic influences and/or their lived experiences. Regardless of the context in which adultification takes place, the impact results in children's rights being either diminished or overlooked.'

<sup>41</sup> Jahnine Davis (2022) Adultification bias within child protection and safeguarding. Retrieved from <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf>

<sup>42</sup> Better, S. (2008). Institutional racism: A primer on theory and strategies for social change. Rowman & Littlefield.



The Discrimination Incident Reporting Form (DIRF) is the only mechanism for Black young adults to raise issues of unfairness. Prejudicial treatment is often manifested in subtle actions, which is at times difficult to evidence, making complaints processes tokenistic.<sup>43</sup>

*'To be fair, we have got, we've got like equality teams that deal with diversity [with DIRF (Discrimination Incident Reporting Form)]... it's about discrimination something. So, like if you feel like you've been discriminated or like racially abused [by staff] you can put a DIRF form in and they do check it quick.'*

– Simon (23)

The DIRF process aims to champion prisoner voice providing an opportunity to participate in an accessible complaints process. However, Black prisoners are more likely to feel their complaints were managed unfairly compared to their white counterparts.<sup>44</sup> Even when accessing complaints processes Black young adults experience inequitable treatment. There was a sense that systems and practice in prisons risked perpetuating racism and in turn exacerbating the racism and differential treatment Black care-experienced young people would experience:

*'I think obviously, we know the Met Police has come out with a massive.....release that they are institutionally racist as an organisation, but I think, I think we probably would all acknowledge ourselves that the prison service version of following Lammy [Review] is round the corner, if we're honest... and not, not, not enough has been done since that report that actually address the issues but that was put in place from that report.'*

– Professional 3

Racism prevented professionals treating Black care-experienced young adult's experiences with the nurture

consideration and care they require. In this research, racialised stereotypes were fundamental in shaping how the young people were viewed and responded to. Often the intersection of being care-experienced was lost in the shadows of racism. It is evident that not enough is being done to systematically eradicate racist practice from the criminal justice system.<sup>45</sup> Furthermore, more consideration and understanding around someone's care experience is imperative for future service development.

When considering the stereotype of the angry Black woman, Dee and Amy agreed that due to racial bias prison officers were less likely to believe and take the view of Black girls and women seriously. Interestingly, neither Dee nor Amy attributed their care status to the negative experiences in prison. For them, the differential treatment experienced was primarily due their racial/ethnic identity:

*'White people they just get away with everything, the same person because I went to seg,<sup>46</sup> she got a \*inaudible\* the same day as me... I was only put in seg under good order, so I was there from Friday she had her adjudication on the Monday. I thought that they were going to put her in seg, for even at least a week but she went back to the house block and didn't get a punishment. And difference between us, because it was the same thing, she was white, and I was Black.'*

– Dee (24)

*'The people in here claim that they want Black girls to win yet when it comes down to it, they just see me as the angry Black girl'*

– Amy (24)

Participants shared that throughout their interactions with the criminal justice system they were rarely treated as vulnerable. Support from professionals was inconsistent and lacking at times which contributed to feelings of isolation and forced independence.

<sup>43</sup> Ozturk, M.B. & Berber, A. 2022, 'Racialised professionals' experiences of selective incivility in organisations: A multi-level analysis of subtle racism', *Human relations* (New York), vol. 75, no. 2, pp. 213-239.

<sup>44</sup> Banwell-Moore & Tomczak (2022) Complaints: Mechanisms for prisoner participation? <https://journals.sagepub.com/doi/pdf/10.1177/14773708221094271>

<sup>45</sup> Irwin-Rogers, Keir (2018). Racism and racial discrimination in the criminal justice system: Exploring the experiences and views of men serving sentences of imprisonment. *Justice, Power and Resistance*, 2(2) pp. 243-266. <https://oro.open.ac.uk/56764/3/56764ORO.pdf>

<sup>46</sup> Segregation Unit or Wing in Prison



## Absent and Inconsistent Support

### Who is here to support me?

Inconsistent support from professionals left Black care-experienced young people to navigate the care and criminal justice systems uninformed of their rights, expectations, and entitlements. A small minority held strong relationships with their social workers and /or personal advisors. However, many young people we spoke to found the support sporadic:

*'I'm meant to get reviewed every 6 months [...], all that D Cat stuff and what not but I isn't seen [my social worker], I don't see her like that. I have to ask the question. I must put like applications in and ask the question as in like, 'Are you coming to see me?' Then it'll be, 'Oh, I was going to come and see you, but this... excuses but it could be real excuses, it could be problems in your life, it could be. But it's like, just manage it'*

– Simon (23)

Social workers need to be a consistent feature in the lives of children in care. The young adults shared difficulties in being able to establish trusting relationships with social workers as they were often only present on selected occasions. Some young adults were unaware of who their social workers were and how to contact them, whereas a minority had confidence to request visits and support from their social workers while in prison. The distant relationships impacted young people's belief in their worker's ability to provide accurate character references in court proceedings when social workers were required:

*'The only thing I've done with my Social Worker is she's taken me from that Council place to the care home and that was it, that was it, we exchanged numbers and she's gone and then maybe, maybe like in a little Court, like when I'm in these situations, gone to Court and shit, she might make an appearance or a video call or something, just to, I don't know, give*

*her opinion on the whole situation, I don't why they need her opinion because she doesn't know me from nowhere.'*

– Timoty (24)

Each young person who shared their stories with us was currently incarcerated and some recalled previous imprisonments. The young people rarely shared how the prison staff recognised their care status, instead this happened with external staff such as social workers, personal advisors,<sup>47</sup> and voluntary sector providers.

Black care-experienced young adults were not provided specific support based on their care status when entering prison. The care-experienced prisoners shared that the presence of social workers and personal advisors was inconsistent for most participants and felt transactional for others. They experienced sporadic visits and/ or high staff turnover which impacted their ability to establish relationships and thus gain support.

Some participants were unable to differentiate between the roles of their social workers and personal advisors and therefore referred to their advisors as social workers:

*'Like I've been in jail for three years, within the three years I've had about five different social workers, whether they've left, whether they've quit the job, gone to do something in a new department, and right now I've even got someone new that I've only known for like a month. It's just like I don't feel comfortable talking to him, because like you're just going to [go] one day like, and it's like I'm just going to do all this all over again.'*

– Kamari (19)

The opinions of their social workers held weight in court and care proceedings, but the young people felt their social workers did not know them enough to fully advocate on their behalf. Many participants described navigating the court process on their own (with only counsel presence). This is particularly damaging as Black care-experienced young adults stated that their care status was used to depict them negatively:

<sup>47</sup> Dfe (2018) Extending Personal Adviser support to all care leavers to age 25 Statutory guidance for local authorities. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/683701/Extending\\_Personal\\_Adviser\\_support\\_to\\_all\\_care\\_leavers\\_to\\_age\\_25.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683701/Extending_Personal_Adviser_support_to_all_care_leavers_to_age_25.pdf)



*'I'm just feeling vulnerable, like I'm in Court and my whole life background is coming out, things how I've been abused in care, like you know, physically beaten by carers, things like that, seeing certain things, in Court so it's like my life can be used and like tailored to when it suits people and how I can come across but if I never had the right representation for them to like interpret it in a certain way, they will just make it like yeah, 'this guy, like he's just a problem', do you know what I'm saying, 'get rid of him'...'*

– AJ (18)

Black care-experienced young people must fight numerous stigmas based on the intersection they occupy. The criminal justice system needs to be more considerate of the traumas this demographic face while navigating society and complex systems. For Black care-experienced young people, their care journeys have been weaponised to portray them as 'problematic'

rather than to demonstrate their vulnerabilities. With little knowledge of the court process and often no support, there is a power imbalance at play:

*'Uh, no. No, no one had explained to me. Like the best person that actually explained to me my actual rights were my solicitor but after, obviously there's only so much a solicitor could tell you only because based on your cases and that, whatnot, but yeah, like obviously I had to just understand it by like just reading these books and that.'*

– Malcom (20)

Black care-experienced young people present a duality which makes them hyper-visible when deemed to be wrongdoers, while their vulnerabilities (harm and abuse) are made invisible.<sup>48</sup> Black care-experienced young people feel that the court process is biased and leaves them feeling exposed, judged, and misunderstood. The young people distrust the system and believe that all known information about their lives

<sup>48</sup> Davis, J., and Marsh, N. (2020). Boys to men: the cost of 'adultification' in safeguarding responses to Black boys. *Critical and Radical Social Work* 8, 2, 255 259, available from: <<https://doi.org/10.1332/204986020X15945756023543>>



would be used against them negatively:

*'I know some judges are quite ruthless. I wouldn't be that understanding. Even the prosecution, they might well play [my care status] to their advantage.'*

– Simon (23)

What was evident when analysing the data was how 'support' or the lack of it was a feature, alongside the dynamic of trust. Participants demonstrated an awareness of what support they would like to receive but were understandably distrustful given past experiences. The challenge is how to undo the past to then unlock the future? Undoing the past will be reliant on honest and humble engagement by professionals and decision makers to hear, understand and act on what is being said. Support should not be a gift, it must be genuine, loving and one of the foundations that underpins all relationships and practice as a bare minimum practice standard.

#### **What am I entitled to?**

The young people we spoke to received diverse levels of financial support based on the policies of the local authority they were under the care of. Concerningly, some participants were unaware of their entitlements and navigated prison sentences without the financial support they were entitled:

*'No, all that social worker stuff even, imagine talking about that, they owe man like £3,500 but I don't care about that. What, what...? Because they were meant*

*to be, every, they meant to be, since I was 18, they were meant to be giving man something like, oh I don't even know like £60 a month but I never, ever claimed that none of that, I didn't even know that [I was entitled to the funds].'*

– Jason (20)

The young adults we spoke to needed to be fully aware of their entitlements and supported to access them. For some young people awareness of financial support was inconsistent based on relationships with professionals or their peers. The distribution of this information was not standardised and therefore contributed to inequitable experiences for care-experienced young people. For Black care-experienced young adults in prison, financial support is so important to acquire needed provisions. It was unclear whether policies differed based on the borough they arrived from or because of a lack of transparency by their social workers regarding their entitlements. Some received weekly payments while others had to advocate for backdated payments once informed of their entitlements. Others were not entitled to financial support while some were reluctant to claim the funds as they had become accustomed to managing without it.

Throughout this research we observed a trend of self-reliance due to support being absent or withheld. This made Black care-experienced young people more likely to normalise their vulnerability and refrain from seeking support even when presenting with trauma.





## Trauma and Mental Health

### You cannot break me!

The young men we spoke to demonstrated that trauma was normalised from an early age. Many felt that to survive both mentally and physically in and outside of prison, they had to rely on themselves, even if detrimental to their wellbeing. Without support, professional curiosity and appropriate referral pathways, Black boys and young men were left to navigate life without the acknowledgement of the traumas they had experienced.<sup>49</sup> For Black boys, the intersection of racism and masculinity was apparent in the research, with most participants straddling harmful narratives of what it is to be male, in tandem with the negative perceptions of Black boys and young men. As Cavan shared when he was eventually offered support, there is a resistance to engage and be vulnerable. The language used raises issues of how support with trauma is seen, which raises a challenge for professionals on how to remove the stigma. Therapy should not be seen as a process to 'break' a person, but as a process of support:

*'It did not help. I've seen, what, over the past six years, I've seen probably six therapists and none of them could break me.'*

– Cavan (19)

Due to multiple missed opportunities for safeguarding and psychological support, many of our participants first accessed mental health support in prison. Even this was inconsistent and time-limited (in part due to staff turnover, and location). We observed potential presentations of neurodiverse conditions or self-diagnosis. Most boys we spoke to were not assessed or diagnosed with a neurodiverse need:<sup>50</sup>

*'People's needs, like people's needs, whether people's got any learning difficulties, like ADHD, autism, all that kind of stuff, PTSD, but that's what I suffer from, and it's like, it took me so many years to get a diagnosis for all of those kind of things, do you get me, and it's like I don't*

*blame them, me I'm possibly from my own actions, but those things sometimes have a part to play on how I behave, do you know ...'*

– Kamari (19)

Female participants also shared their experiences of trauma support. When we met Dee, she was a year in remand, with little hope of when her court date would be scheduled. This meeting with the research team was Dee's first experience of speaking to professionals about her experiences of care and the criminal justice system. She shared the many difficulties she experienced in prison surrounding her mental health:

*'There's many times that I didn't have a hope. Like there's many times in this place and you see it a lot, when people try to commit suicide, you don't know how many times somebody else's is thinking to throw themselves over the banister because I can tell you know it was a daily thing for me at one point.'*

– Dee (25)

Like many of the Black young men we spoke with, Dee shared concerns about how the mental health and wellbeing of herself and peers was either not recognised by prison officers or not responded to appropriately. In particular, the lack of dialogue with prison officers about mental health issues, created a sense of shame and silence that these issues are to be managed in isolation.

*'It's unfortunate but the staff a lot of them don't know what to say, so if you are dealing with stuff and whatever they don't speak to you, and I will ask them questions, but they don't know how to respond and I'm not like blaming anyone but they just they just don't know.'*

– Dee (25)

<sup>49</sup> Jahnine Davis (2022) Adultification bias within child protection and safeguarding. Retrieved from <https://www.justiceinspectories.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/06/Academic-Insights-Adultification-bias-within-child-protection-and-safeguarding.pdf>

<sup>50</sup> Firmin, C et al (2021) **Report: Building Safety: Safeguarding black young men and boys in Lambeth.** <https://www.contextualsafeguarding.org.uk/media/zcthpouq/building-safety-final.pdf>



White children in the youth justice system are more likely to present with mental health concerns compared to their Black and racially minoritised peers.<sup>51</sup>

However Black children are less likely to be seen as in need of mental health support and data continues to show that Black children are significantly less likely to be referred to mental health services until they reach crisis point - research for example shows that Black children are ten times more likely to be referred to NHS CYPMHS via social services rather than through a GP, compared to white British children.<sup>52</sup>

### **Self-help**

When we spoke to Black male participants, opportunities to provide therapeutic support seems to have been missed in earlier periods of their lives. In the absence of appropriate support services following traumatic events, such as loss or bereavement, the participants were required to find alternative means of keeping themselves safe:

*"I was 15, just before I got released from [football club] yeah man's older brethren who was stabbed in an estate ... he was doing all the right things you get, and he was killed. You see, after that day that's the first time I gripped a shank [knife] after he died."*

– Jason (20)

After witnessing his friend die aged 13, Moses began to carry knives for his own protection. His room was raided by police as they held information that he possessed weapons. Police were unaware of the reason Moses was armed and he was criminalised without acknowledgment of the trauma he carried:

*"Before I went to care my bredren died in front of me in [ ] innit? I was, yeah, he died in front of my face and .... I'm like 12/13, young, I went to the shop, left him for like 2 seconds ...but like three/four youths, yeah, just, yeah, they ripped him open."*

– Moses (19)

With limited or no access to appropriate pastoral and professional mental health services, the Black boys we spoke to self-medicated through substance use and/or weapon possession as a means of safety. Among many in this cohort, there was a sense of normalisation of harm (for example experiencing bereavement and witnessing violence) and general loss before their first interactions with the care system. Young people reported that professionals around them failed to consider the impact of these traumatic events on their wellbeing and support was poorly managed.

Black young adults describe not being believed by professionals when sharing vulnerability. This may impact on their perception of being heard and supported by other professionals (for example mental health practitioners), especially if their first encounter with them was while incarcerated, leading them to associate the profession with the criminal justice system. Young women also reported first receiving mental health support in prison. Further research should look at the gendered differences between men and women, as outlined in our limitations section (**see appendix 1**). Due to only a small number of female participants being available for inclusion in this research, we are unable to draw conclusions about gendered differences in access to mental health support while in prison.

All individuals should have access to suitable quality mental health support in their time of need, especially as mental and emotional wellbeing are key components of rehabilitation and successful resettlement. It is essential that professionals understand racialised trauma and continuously work towards providing inclusive and trauma-informed care to address the needs of Black children proactively rather than reactively. This could prevent trauma being a catalyst for starting criminal behaviour or developing cycles of criminality. Given the similar messages from the diverse range of Black young men and women across the multiple prison sites, further consideration must be given to explore the extent to which prison officers feel confident to hold space for such topics and issues, including the training and support they are provided.

<sup>51</sup> Assessing the needs of sentenced children in the Youth Justice System 2018/19 England and Wales (2020). Youth Justice Board and Ministry of Justice.

<sup>52</sup> [https://www.nhsrho.org/wp-content/uploads/2022/02/RHO-Rapid-Review-Final-Report\\_v7.pdf](https://www.nhsrho.org/wp-content/uploads/2022/02/RHO-Rapid-Review-Final-Report_v7.pdf)



### **Importance of Holding Space: Black young people having spaces to speak to Black men and women**

One of the many learnings from this research was the importance of holding and allowing space for those whose voices and experiences are rarely platformed, listened to and heard. We remember their tears, release, and exhalations of sharing that finally they were given a sense of permission to freely speak about their experience on their own terms without worry or fear of consequence. In this moment, we took the opportunity to provide positive affirmation and to remind them that they are enough. Many Black care experienced young people have experienced significant trauma and adverse experiences, including abuse, neglect, and disrupted family relationships.

Nurture, care, and sense of belonging are crucial for all and especially those whose identity has continuously

been positioned through a negative and deficit-based lens. Holding space with all participants, was a reminder that the research space can act as a holistic experience, particular for those lesser heard voices.

In addition, firstly it is incumbent on all professionals to remain curious about Black care-experienced women in the criminal justice system, as whilst they may encounter similar experiences to their male counterparts, they often face different forms of intersecting challenges due to gendered racism and sexism. Secondly, it is important for professionals to understand the role masculinity plays in the lives of Black males, it can result in emotions and the realities they have faced and face on a daily basis being buried deep. For both females and males, professionals must look beneath the outer, understand the impact of intersectionality and create 'holding spaces'.





## Section 2: Researchers' reflections

### The Power of Representation

As a team of Black professionals, including those who are care-experienced, undertaking this research was personal and rewarding, but most of all painful. It was a stark reminder of how little has changed. For us and many other Black adults and children this report will bring a sense of frustration and exhaustion where we continuously ask ourselves why are we still here?

With these feelings we found ourselves reflecting on what else we had learned from this research, most importantly we learned that to understand and explore racism and wider experiences, each young person had to feel as safe as possible in our company to share their realities. Consequently, this led to us thinking about the power of representation, care, and humility both visually and in articulation.

It started with us telling each young person who we were, sharing that some of us are care-experienced, emphasising and telling them how sorry we were for the harm they experienced, as in reality many had not been told that before. We listened out for the silences and responded to them each time to ensure their individual strengths and qualities were heard, captured and valued.

We complemented the designs of their cornrows, to their smiles and skin complexions, to acknowledging how they survived some harrowing experiences way beyond their years; and we paused and knew when it was time for silence, when pain was radiating in the room.

### Frustration and Despair

Sitting and digesting the traumatic experiences this group of young people have endured and continue to endure left our team with feelings of despair. With an overwhelming sense of worry we found ourselves questioning, what will come of these young people, who will remember them, who will be waiting at the

gates on their release and who will hold them and tell them how important and special they truly are?

Our greatest concern was the level of mental ill health apparent in the young people we met. For some this was something they could not, or did not have the full capacity to acknowledge, for others it was clear that the pressure to not 'break' and be strong meant they had to deny themselves the emotions to truly connect with how they were feeling.

One young person, who had experienced four bereavements whilst in prison, his voice trembled as he struggled to talk about this experience, our initial reaction was that of care - to reach out and hold them in whatever capacity that looked like, but instead he gulped his pain, cracked some jokes, and continued the conversation as if nothing had happened. We had to respect his way dealing with this, as like others, he shared that you would not be seen to be weak in prison otherwise you will get swallowed up. Besides, how can we expect this young people to feel safe enough to accept or seek support, when throughout their lives, they have had their experiences of trauma overlooked, not acknowledged, or recognised?

This was a challenging realisation and another reminder that for Black care-experienced people, whether in the community or in secure estate, experiences of being let down and unprotected meant that they had to rely on themselves even if detrimental to their mental health.

### We cannot and will not forget

For us, this research is beyond 'a study' or 'piece of work' for us it is steeped in raw and painful experiences, which cannot be placed on a shelf for a short read or forgotten in a few years, but a constant reminder that so much more is needed before meaningful change can truly be established.

We were always forever grateful and honoured to share space with the 22 who sat with us and shared snippets of their life with us. We just wish that they experienced the feeling of being held and honoured throughout their lives as a normal and everyday experience.



## Section 3: Recommendations

Given the findings from this research it is clear that reform is needed across the care and criminal justice systems if we are to improve outcomes for Black care-experienced young people. This includes action from when these young people first come into care, to thinking about their interactions with services from health to education to considering how we can ensure that those who do come into the criminal justice system are treated with respect and compassion. As such we are calling on a range of action from across Government departments aimed at improving outcomes for this marginalised group of young people. Below we set out five key recommendations on the changes we want to see:

### **Recommendation one – improve the experience of Black children in foster care**

**The Department for Education should develop and fund a Black Foster Care Network. This body would have as its aim to increase the number of high-quality carers within the UK who have an understanding of the needs of Black children in the care system.**

It is clear from our research that improving outcomes for care-experienced Black children in custody must begin by improving their overall care experience and ensuring that Black children who cannot live with their birth parents receive loving care which respects and affirms their identity. Our research highlights how too often Black children who face significant trauma and isolation before coming into care, find this is exacerbated when they enter the system due to a lack of consideration for their identity and cultural needs.

There is already a shortage of foster carers in the UK; the Fostering Network estimates that fostering services across the UK need to recruit at least a further 7,200 foster families in the next 12 months alone.<sup>53</sup> The national implementation the Care Review in England – *Stable Homes Built on Love*,<sup>54</sup> commented that a shortage of foster carers is reducing a child's chances of living in a home environment and living close to their community and loving relationships. It committed the

Government to investing over £3 million to deliver an initial fostering recruitment and retention programme in the Northeast Regional Improvement and Innovation Alliance with a further investment of £24 million by 2023 looking at improving the in recruitment and retention of foster carers across England.

A key part of this drive to think about recruitment and retention of foster carers must be to ensure that carers are recruited who can meet the different needs of different cohorts of children who enter the care system. To ensure that all Black children in the care system have access to cultural appropriate care and drawing on the recommendations of the Black Care Experience Network<sup>55</sup> *the Department for Education should establish a Black Foster Care Network.*

This would draw on the experience of the establishment of the Muslim Foster Care network<sup>56</sup> to create an expert body aimed at ensuring that all Black children in care have access to high quality carers who understand their needs. They should do this by developing programmes of work aimed at raising the awareness of the needs of this cohort, developing educational resources for carers from all backgrounds who are caring for Black children and develop a programme outreach work which raises awareness of the need for foster parents from within the Black community to help recruit more foster carers from a greater range of cultural backgrounds.

### **Recommendation two – improve access to mental health support for Black children in care**

**The Department for Education and the Department for Health and Social Care should work together to improve mental health support for all children in and leaving care with a specific emphasis on how this support can be delivered in culturally sensitive way.**

It is clear from this research that many of the participants experienced significant past trauma in their lives and the lack of support to help them recover from events in their past was a significant contributing factor to the challenges these young people continued to face. Data suggests that almost half of all looked-after children have a diagnosable

<sup>53</sup> Figures from The Fostering network see <https://www.thefosteringnetwork.org.uk/advice-information/all-about-fostering/recruitment-targets#:~:text=With%20record%20numbers%20of%20children,the%20next%2012%20months%20alone>

<sup>54</sup> Department for Education (2023) Stable Homes Built on love available online at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1147317/Children\\_s\\_social\\_care\\_stable\\_homes\\_consultation\\_February\\_2023.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1147317/Children_s_social_care_stable_homes_consultation_February_2023.pdf)

<sup>55</sup> The Black Care Experience (2021) available online at <https://static1.squarespace.com/static/624ecfb1746ba23d95da9888/t/62500e47d8d6736e75c1f3b/1649413713648/The+Black+Care+Experience+2021+Report+Updated.pdf>

<sup>56</sup> To find out more about the Muslim Foster Network visit <https://muslimfosternetwork.org.uk/#:~:text=Established%20in%202016%2C%20Muslim,guidance%20on%20supporting%20Muslim%20children>.



mental health disorder<sup>57</sup> – compared to one in six children in the general population.<sup>58</sup> Care-experienced young people face significant barriers in accessing mental health support. For example, Barnardo's Neglected Minds report<sup>59</sup> found that 65% of care-experienced young people whom workers identified as having mental health needs were not currently receiving any statutory service. This problem is likely to be worse for many Black young people in care, given the substantial evidence that there are significant racial inequalities in access to mental health services in the general population, including evidence that Black people are less likely to access mental health services through via primary care and instead are overrepresented in crisis care.<sup>60</sup>

It is essential that more is done to ensure that Black children who enter the care system with significant mental health needs, both to ensure these needs are identified early and that an effective plan is put in place. This needs to happen in a way which is culturally sensitive. To achieve this, we recommend that the Department for Education works in partnership with the Department for Health and Social Care to produce a plan for improving mental health support for children in and leaving care which is sensitive to the needs of Black children. This plan should include:

- A national roll-out of mental health assessments for all children when they enter the care system. These would be similar to the assessment of children's physical health which takes place when they enter the care system. These would build on learning from a recently published pilot of schemes in several local authorities who demonstrated how this could be achieved in practice.<sup>61</sup>
- Introducing a virtual mental health lead with responsibility for children in and leaving care in every local authority. These individuals would play a similar role to the role that the virtual school head plays in improving education outcomes for looked-after children and provide important local leadership to this issue. They could play a key role in co-ordinating action from different stakeholders,

including Child and Adolescent Mental Health Services (CAMHS), mental health support teams in schools and community health services.

- Guidance to ensure that services that are developed to meet the needs of children in and leaving the care system are culturally and linguistically competent and therefore accessible to children and leaving care irrespective of their ethnic background.

### **Recommendation three – take action to reduce the over-criminalisation of children in the care system.**

**There should be a statutory duty on local authorities to work with partners to prevent the unnecessary criminalisation of children in care and care leavers including a requirement to develop local protocols to help achieve this.**

A clear finding for our research is that the participants felt they were significantly more likely to enter the criminal justice system than their non-care-experienced peers. For example, the participants in the research reported examples such as care home staff using the police to enact discipline when they left their placement without permission. The over-criminalisation of children in the care system has long been documented – data from the Office for National Statistics for example shows that more than half (52%) of children in care had a criminal conviction by age 24 compared to 13% of children who had not been in care.<sup>62</sup> It is also clear from our research that this problem can be amplified in relation to Black children and young people in care who face this risk due both to their care status and their ethnicity.

The Government has recognised the problem of over-criminalisation of children in care and in 2018 issued a National Protocol on Reducing Unnecessary Criminalisation of looked-after children and Care Leavers.<sup>63</sup> This protocol provides a particular focus on looking at behaviour management encouraging those who interact with children in the care system

<sup>57</sup> A Healthy State of Mind: Improving young people's mental fitness – Localis

<sup>58</sup> Localis "A healthy state of mind: improving young people's mental fitness" available on line at <https://www.localis.org.uk/wp-content/uploads/2017/06/A-healthy-state-of-mind-final.pdf>

<sup>59</sup> neglected-minds.pdf (barnardos.org.uk)

<sup>60</sup> Smith, N (2017) "Neglected Minds: a report on mental health support for young people leaving care" available on line at <https://www.barnardos.org.uk/sites/default/files/uploads/neglected-minds.pdf>

<sup>61</sup> Evaluation of the mental health assessment pilots for looked after children - GOV.UK ([www.gov.uk](https://www.gov.uk))

<sup>62</sup> Department for Education (2021) "Evaluation of the mental health assessment pilots for looked after children" available on line at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1035621/Evaluation\\_of\\_the\\_Mental\\_Health\\_Assessment\\_Pilots\\_for\\_looked\\_after\\_children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1035621/Evaluation_of_the_Mental_Health_Assessment_Pilots_for_looked_after_children.pdf)

<sup>63</sup> Department for Education, Home Office, Ministry of Justice (2018) "The national protocol on reducing unnecessary criminalisation of looked after children and care leavers" available on line [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/765082/The\\_national\\_protocol\\_on\\_reducing\\_unnecessary\\_criminalisation\\_of\\_looked-after\\_children\\_and\\_care\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765082/The_national_protocol_on_reducing_unnecessary_criminalisation_of_looked-after_children_and_care_.pdf)



to consider how to de-escalate instances without needing police involvement. However, while this was a welcome step forward, it has not been placed on a statutory level, and while the national protocol did stipulate that key agencies in local areas should work together to develop local versions appropriate to the needs of their area, there is no requirement on local authorities to do so. Analysis by Manchester Metropolitan University<sup>64</sup> shows that those that have been produced differ significantly in length and scope while very few make specific reference to the risk of criminalisation of specific groups of children in care with the research noting specifically that *'consideration of ethnicity is also noticeably absent from most of the protocols.'*

Given these limitations in the current approach we believe that the Government should seek to strengthen its response to the over-criminalisation of children in the care system by placing a statutory duty on local authorities to prevent unnecessary criminalisation of children in care and care leavers. This duty should require all local authorities to work with partners to produce a specific protocol on how this will be achieved locally. These protocols should be underpinned by the necessary training and resources to achieve meaningful change on the ground and make specific reference to the needs of specific groups of children in particularly the additional risk that Black children face.

#### **Recommendation four – improve understanding across agencies of the needs of children in care and care-experienced young people as well as providing training on how to better address these needs**

**The Department for Education should extend corporate parenting responsibility to all bodies involved in the criminal justice system including the police, courts, prisons, and probation systems.**

A clear issue uncovered by our research is that many agencies lack understanding of what it means to be care-experienced and the specific challenges this group faces. This lack of awareness is evidenced in the interactions many public bodies have with care-experienced young people including agencies such as health and housing. For the minority of young people who become involved with the criminal justice system

this lack of awareness is apparent in the courts, prisons and probation services. Many professionals working in these institutions have little understanding of what it means to be in 'in care' and the impact past childhood trauma can have on a young person's reactions or behaviour. Young people in this research commented how they were perceived as more adult-like which heightened the expectations on them, when the reality is that as children the system needs to treat them as 'children first'. This issue has received more attention recently due to the case of Child Q and concerns about the 'adultification' of Black children in general.

Children in care are recognised as having 'the state' as their parent and as local authorities being their 'corporate parent'. However, the public bodies that have a legal duty to promote the wellbeing of care-experienced people as set out in the 2017 Children and Social Work Act is much more limited. This Act set out seven principles that some public bodies, such as local authorities should have regard to when exercising their functions in relation to looked-after children or care leavers – they are:

- to act in the best interests, and promote the physical and mental health and well-being, of those children and young people
- to encourage those children and young people to express their views, wishes and feelings
- to take into account the views, wishes and feelings of those children and young people
- to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners.
- to promote high aspirations, and seek to secure the best outcomes, for those children and young people
- for those children and young people to be safe, and for stability in their home lives, relationships and education or work
- to prepare those children and young people for adulthood and independent living.

These principles however do not apply to the majority of public bodies including many within the criminal justice system. In its Strategy 'Stable Homes' the Government pledged to increase support for care-experienced young people by legislating to extend corporate parenting principles to a greater range of

<sup>64</sup> A Difficult Balance: Challenges and Possibilities for Local Protocols to Reduce Unnecessary Criminalisation of Children in Care and Care Leavers - Katie Hunter, Claire Fitzpatrick, Jo Staines, Julie Shaw, 2023 (sagepub.com)



public bodies – and has committed to consult on how to do this in Autumn 2023. This has been the approach taken in Scotland which changed the law in 2015 to name 24 bodies and organisations as corporate parents, alongside local authorities.

Extending corporate parenting principles in this way has the potential to significantly improve understanding of what it means to be in care throughout the whole of the public sector. Such a duty would act as a catalyst to ensure public bodies upskill their workforce in working with care-experienced children and young people and help to ensure organisations improve their data collection so they can gain an understanding of how many care-experienced young people they are interacting with. The extension should be accompanied by a requirement that the Government appoint a specific body to support public bodies in developing their services in a way which is care-leaver friendly – in Scotland for example this role was given to Who Cares Scotland. As part of this duty we would also like to see a requirement that there *is an annual report to Parliament on corporate parenting and the progress which different public bodies – including those within the criminal justice system – are making towards improving support for care-experienced young people*

Increasing accountability in this way will enable significant progress in supporting Black care-experienced children and young people in the criminal justice system helping to ensure there is a greater understanding of their needs for a trauma-informed response.

### **Recommendation five: There must be a renewed emphasis on implementing reform aimed at tackling institutional racism within the criminal justice system**

The Government should publish an updated progress report on how far it has implemented the recommendations of David Lammy's Review into the treatment of and outcomes for Black, Asian and Minority Ethnic Individuals in the criminal justice system. This should include a clear action plan on how it intends to take forward the recommendations in that report which have yet to be progressed.

In 2017 David Lammy MP produced a major report looking at the treatment by the criminal justice system of people from Black, Asian and Minority Ethnic groups.<sup>65</sup> This report highlighted how the overrepresentation of these groups within the criminal justice system could not be attributed simply to wider underlying social issues such as poverty and school exclusions but was also a result of significant problems within the system itself. The report identified evidence of disproportionate representation of people from Black, Asian and Ethnic Minority groups at all stages from rates of arrest, to sentences received (particularly in relation to drug offences), through to reports from people in prison from Black, Asian and Ethnic Minority groups that they felt actively discriminated against while incarcerated. It also emphasised how there were particular challenges relating to young people highlighting how despite falls in the overall numbers of young people within the youth justice system, the Black, Asian and Minority ethnic proportion who were offending, reoffending and going into custody was rising significantly.

The report contained 35 recommendations aimed at institutions across the whole of the criminal justice system. These sort to challenge practice and ensure fair treatment for everyone regardless of race. The report particularly emphasised the need for decision-making to be brought into the open and exposed to scrutiny. It recommended taking an 'explain or reform' approach to tackling racism which would mean that whenever disparities between ethnic groups were identified institutions should be required to either provide evidence-based explanations or else introduce reforms.

The Government issued a response to the Review in December 2017,<sup>66</sup> setting out how they intended to take forward the recommendations. However, since then while there has been some movement on implementation this has been slow, and evidence suggests it is not achieving much change in practice on the ground.

A central plank of the recommendations was to look at improved data collection in relation to practices within the criminal justice system, since it is only through identifying where racial disparity is occurring on a systemic basis that questions could be asked on why this was happening, and action put in place to

<sup>65</sup> David Lammy (2017) The Lammy Review - An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the criminal justice system available online at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf)

<sup>66</sup> Ministry of Justice (2017) "Government response to the Lammy Review on the treatment of, and outcome for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System" available online at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/669206/Response\\_to\\_David\\_Lammy\\_Review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669206/Response_to_David_Lammy_Review.pdf)



address it. The report empathised that '*The default should be for the Ministry of Justice (MoJ) and CJS agencies to publish all datasets held on ethnicity*', a recommendation that the Government committed to take forward in its response promising '*The MoJ will publish more and better data on ethnicity where possible.*'

However, research by the Prison Reform Trust<sup>67</sup> highlights how since the Review and Government response were published there has been almost no change in the amount of routinely published data by ethnicity. This means that Government data sources continue to have key omissions including for example a lack of data broken down by ethnicity on a range of practices within the system including the use of segregation, restraint and drug testing. Our research shows that many people in prison continue to feel there is a disparity in treatment for example in practices such as the use of segregation. The system will continue to struggle to address the sense of unfair treatment amongst many Black prisoners if there is insufficient data to enable identification of problems where they do exist and an open discussion on how to address them.

Lack of progress on data collection is also not the only element of the reforms where progress on implementation hasn't been sufficient. The work by the Prison Reform Trust identified several others including reforms to the Incentives and Earned Privileges system, the composition of use of force committees and the introduction of support structures for offenders over the age of 18 who are judged to have low levels of maturity - a key reform which aimed to tackle the issue of adultification.

The Government itself has issued two progress reports tracking implementation however the last of these was published in 2020<sup>68</sup> and no further analysis has been made since. This report suggested that even on the most optimistic interpretation of implementation less than half of the recommendations had been implemented in full. David Lammy himself commented in response to this report how he was disappointed with progress and how race disparity within the criminal justice system had got worse between 2017 and 2020 stating in a parliamentary debate in 2020 that '*When I completed the review, 41% of children in prison came*

*from a Black, Asian or Minority Ethnic background. Now the figure is 51%*'<sup>69</sup>

It is six years since the Review was published and our research indicates that the criminal justice system still needs to do a lot more to tackle racism within its structures and procedures. We therefore recommend that the Government revisits the recommendations set out in the Lammy Review and conducts a full analysis of the extent to which reform has been implemented as well as looking to see what, if any, evidence is available that reforms introduced have impacted practice on the ground. The Government should also commit to producing a roadmap to implement those elements of the reform programme which have yet to be actioned with a particular focus on introducing more robust data systems to track whether there is disproportionality based on ethnicity in a range of practices across the criminal justice system. This should ensure that where there is unexplained racial disparity in treatment this is identified and investigated with necessary improvements made.

<sup>67</sup> Prison Reform Trust (2023) "Lammy five years on: Prison Reform Trust update on the Lammy Review's prison recommendations". available online at <https://prisonreformtrust.org.uk/wp-content/uploads/2023/03/Lammy-five-years-on.pdf>

<sup>68</sup> Ministry of Justice (2020) "Tackling Race Disparity in the Criminal Justice System 2020 update" available online at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/881317/tackling-racial-disparity-cjs-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/881317/tackling-racial-disparity-cjs-2020.pdf)

<sup>69</sup> Hansard, volume 678 : debated Tuesday 30 June 2020, available on line at <https://hansard.parliament.uk/Commons/2020-06-30/debates/9846E64F-6A5D-44E5-A98F-4CB6D65D90AF/LammyReview>



# Appendix 1

## Methodology

### Analytical Framework

Intersectionality was applied to this research as this framework allows the research to consider how various characteristics and experiences influence how participants experience the world, from an interpersonal and structural perspective. Building from this framework, adultification bias was also applied where applicable.

### Methods

This is a qualitative study using semi-structured interviews and focus groups as primary data collection methods. Interviews lasted approximately 1 hour. Interviews were audio-recorded after participants gave verbal informed consent and transcribed verbatim. 20 interviews were conducted in person on prison sites with the remaining 2 facilitated via video link.

NVivo software was used to support coding and analysis.

## Inclusion Criteria and Research Approach

### Young Adults

All interviews were held between February and April 2023. All participants were care-experienced (foster care, semi-support accommodation, residential placements) between ages 18-25. Participants were eligible if they self-identified as Black, including those who had at least one parent of Black African or Black Caribbean heritage. Demographic data was captured by asking each participant to self-identify their race, ethnicity, and gender. All participants had experience of the criminal justice system (arrest, court, sentencing, incarceration, resettlement programmes and probation).

The themes explored throughout the research include family life, initial points of contact with the care system and criminal system, health, and wellbeing.

### Professionals

To triangulate findings and explore some of the themes identified in the research with young adults, we spoke with staff who had worked with care-experienced incarcerated individuals.

### Research Team

Principal Investigators Jahnine Davis and Daniel Morris led the research project, with support from research associates Scott Ellis, Kelechi Ukanu, Bakita Kasadha and Kedrina Mulcare. Each interview included two of the Listen Up team. As part of the project, Listen Up shared early insights with Barnardo's project advisory board to ensure learning was shared at regular intervals.

## Anonymisation

This report contains direct quotes from the participants, each participant was assigned a pseudonym (many chose the name themselves) to ensure the data is de-identified.

### Ethics

Ethical approval was granted by both Barnardo's Research and Ethics Committee (BREC) and the HMPPS National Research Committee (NRC). The researchers did not have direct contact with the participants before they were recruited; all participants were recruited through prison officers and probation officers.

In addition, considering the potential emotional impact for participants engaging discussions with Listen Up, all participants had access to telephone support, key workers, and Listeners.

### Participant demographics

Twenty-two interviews were conducted with Black care-experienced young adults who met the inclusion criteria. Their ages were between 18 and 25. Of the 22, 20 participants were male and 2 female. All were incarcerated in England based prisons at the time of their interview.



The research included one focus group for prison staff who have experience of working within the prison setting. All were white and in middle management.

### **Research Limitations**

Although every effort was made to reach a diverse range of Black care-experienced young adults navigating the criminal system, the research team were only able to meet with two Black young women. This is partly explained by a smaller proportion of all incarcerated people being young women and only one of our sites was a female prison. Due to the small number of young women involved in this study we are unable to draw specific racialised and gendered themes. This was compounded by the limited prison staff perspectives that centred on the experiences of Black boys and young men in prison. More research should attend to the specific experiences of Black care-experienced women navigating the criminal justice system. We join calls from Nuffield Family Justice Observatory report for better access to good quality data and the need for disaggregated data.

The project sought to focus on the experiences of prison, probation, and resettlement, however all participants were incarcerated at the time of their interview (some for the first time) and therefore this report contains limited data on the real-time experiences of the probation process. However, some learning was identified by participants who had previous encounters with resettlement and re-entering the criminal justice system and were able to provide retrospective accounts.

None of the participants were offered reimbursements as per the NRC ethics guidelines, which may have affected recruitment.

Similarly, there were a limited number of members of staff involved in this study (both in terms of perspective and homogenous demographics). Participants refer to a range of encounters with professionals, however only white male prison officers were included in the data collection.



# Glossary

## Definition

**Children and young people**

The term 'children' refers to those up to and including 17. The term 'young people' refers to those who are between the ages of 18 to 25 years.

These terms are only used in relation to research that utilises this language, to reflect how the literature describes children.

**Intersectionality**

The term 'intersectionality' relates to the intersecting and compounding nature of a person's identity. Intersectionality acknowledges that a person's interactions with the world are not solely based on just one aspect of their identity but are layered and multifaceted; interactions in which racism, sexism, ableism, classism, and homophobia are experienced simultaneously.

**Marginalised**

The term 'marginalised' describes the process and conditions that prevent individuals and/or groups of individuals from fully participating in social, economic, and political life.

**Minoritised**

The term 'minoritised' acknowledges the process of minoritisation through the lens of structural inequality (Gunaratnam, 2003).

**Children in care, looked-after children or care-experienced**

For clarity, when the term 'looked-after' child or 'care-experienced' are used in this report it is referring to children who are currently or have been under the care of their local authorities under the Children Act 1989. However, the NSPCC have noted that some children prefer the term 'Children in care'.<sup>70</sup>

**Black**

Is referring to those who self-identify as Black and have at least one parent of Black African or Caribbean decent.

<sup>70</sup> NSPCC (2023) Looked After Children. <https://learning.nspcc.org.uk/children-and-families-at-risk/looked-after-children#:~:text=Introduction,children%20and%20young%20people%20prefer>.



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