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Dear Madam

**The Howard League for Penal Reform's response to the Government's consultation on Corporate Parenting Principles; Local Offer; and extending Personal Adviser support to all care leavers to age 25**

We welcome the opportunity to respond to this important consultation.

**About us**

Founded in 1866, the Howard League is the oldest penal reform charity in the world. We have some 12,000 members, including lawyers, politicians, business leaders, practitioners, prisoners and their families and top academics. The Howard League has consultative status with both the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.

The Howard League works for less crime, safer communities and fewer people in prison. We aim to achieve these objectives through conducting and commissioning research and investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. The Howard League's objectives and principles underlie and inform the charity's work.

Since 2002 the Howard League has provided the only legal service dedicated to representing children and young people in custody. Our legal work includes advising young people on their entitlements from children's services and, where necessary, challenging local authorities who fail to provide appropriate support. Such support is vital in reducing the unnecessary criminalisation of children and reducing their chances of reoffending.

We are currently undertaking a two year programme of work aimed at ending the criminalisation of children in residential care. Despite the clear duty on local authorities to prevent the criminalisation of children set out in schedule 2, paragraph 7 of the Children Act 1989, this group is 15 times more likely to be criminalised than children living at home.

We note that the consultation outlines at the outset that it is aimed at local authorities and organisations providing support and services for children and young people. However, we hope that as a charity that provides independent legal advice to children and young people, as well as extensive policy work affecting young people in care and in contact with the criminal justice system, we will be able to provide a valuable insight into areas of the proposed guidance that may fall short of its desired aims.

We have drawn upon our lawyers' experience in practice, our direct participation work with children and young adults and our policy expertise in this response.

### **Corporate Parenting Principles**

This highly aspirational guidance contains some important messages. However, we are concerned that:

- it provides insufficient guidance on what to do when its aims cannot be fulfilled,
- aspects of the guidance undermine the messages it seeks to promote and
- that some important groups of children are not sufficiently covered

#### ***Insufficient guidance on what to do when the aims cannot be fulfilled***

The guidance includes a clear narrative about how the corporate parenting principle should be applied. Two key statements that leap out of the guidance strongly echo the sentiments expressed by both young people and professional supporting adults in our participation work:

- "...the critical question that local authorities should ask in adopting such an approach is: 'would this be good enough for my child?'" (§1.1)
- "All children need love and stability in order to thrive." (§1.3)

Both statements are admirable and important except for two points.

First, in a recent discussion with safeguarding experts on the "good enough" point, one pointed out that the standard should not be subjective but objective and to the standard of good parenting.

Second, while these sentiments set a clear tone and strong narrative for the guidance, there is nothing in the guidance that points as to what ought to happen where the answer to the "good enough" question is answered in the negative or if a child in care is not loved. We appreciate that our experience focuses on children in and on the edge of the criminal justice system and that young people tend only to require the assistance of a lawyer when something has gone wrong. However, in our experience it is frequently the case that the care children receive would NOT be good enough for a properly parented child and that the young person is either not loved or does not get sufficient access to the people who do love the child. In fact, our participation work has shown that children often feel that they are not even liked by their own workers. We have been unable to find any guidance for professionals that acknowledges this problem or helps workers deal with it.

The guidance asks the right questions. But answers are required.

At present, the guidance explicitly states that it is non-prescriptive. It needs to be stronger. If the answer to the "good enough" question is NO, the local authority needs to review the assessments and care plans to make the plan better. If the child is not loved, or not able to access those who love them, the plan needs to be revised to increase the levels of personal care, attention and stability in the young person's life.

### ***Aspects of the guidance undermine the messages it seeks to promote***

The guidance refers to “these children” in three separate places. Children and young people in care need not to be “othered” and it would be preferable to set an example in the guidance by not referring to “these children”.

The example of “Examples of support for care leavers in North Somerset” on page 27 states that local authorities can:

“Offer food parcels, an emergency payment of £10, and voucher for £10 or a top up for gas and/or electric if care leavers are in crisis and have no money for food or electricity (limited to two emergency payments over a three month period, maximum £20 per crisis).”

This reads as an example of bad practice as it undermines the ethos of the “good enough” parenting principle. What parent would expect their child to weather a crisis with a good parcel and a maximum of £20?

### ***Important groups of children are not sufficiently covered***

While it goes without saying that the guidance applies to all children in care, irrespective of where they are placed, the guidance is not sufficiently explicit about the need to apply to corporate parenting principles to young people who are placed out of area, whether in care settings, mental health settings or custodial sentences.

The only references to out of area placements in the consultation document are on page 19 about participation and page 21 where it is included in a set of examples of how local authorities can help children to access services.

The only reference to young people in penal detention is at page 11 where there is an example of how senior leaders can champion young people by referring to two councillors visiting a care leaver in a Young Offenders Institution following their sentence for a serious offence. We cannot see any reference to children detained in mental health institutions.

The document needs to clearly address local authorities' corporate parenting responsibilities towards children who are placed outside their home local authority. In 2014/15 18% of all placements were 20 miles or further from the child's home. Children in children's homes are more likely to be placed over 20 miles from home than those in other types of placement. There are many well-known and documented problems with out-of-area placements, such as difficulties in accessing schools and services and issues around going missing and criminalisation. We also hear of distant (or sometimes not so distant) authorities placing children in homes that are so poorly run that home local authorities will not place their own children in them. Arguably, local authorities should be more alive to their corporate parenting obligations for children in out-of-area placements than they are for those nearby but we know, from talking to the police, children and children's homes that all too often this is not the case. Many speak of an out-of-sight, out-of-mind mentality and of the children being forgotten and neglected by distant local authorities with profound implications for those children.

In our view, it would be a serious omission not to address these issues robustly in this document. We would be happy to provide further details.

## Local Offer

While requirement in section 2 of the Children and Social Work Act 2017 for local authorities to consult on and publish a local offer for their care leavers does not prescribe what the offer should be, as a matter of public law, once an offer has been published, a legitimate expectation arises for the local authority to provide care leavers with the information set out in the offer. If the offer is set too low for fear of creating high expectations, there is a risk that the offer will not be sufficiently ambitious. The present guidance does not set a sufficiently ambitious framework. Annex B simply sets out the areas to be covered but sets no expectations about what should be offered. The illustrative offer at Annex C does not include some key legal requirements for care leavers. For example, under the topic of accommodation, there is no reference to the possibility that the local authority can itself provide accommodation to a care leaver over the age of 18 where the care leaver's welfare requires it (s23C(4)(c), Children Act 1989; R(SO) v Barking [2010] EWCA Civ 1101). This is an important safety net for young people whose needs cannot be met by universal services and the failure to include this as a possibility in the local offer is a serious omission.

The requirements to consult with care leavers are admirable. However, it is disappointing that the guidance only states that it will be "good practice" for local authorities to work effectively with their care leavers to co-produce a local offer that is meaningful and reflects the needs, views and wishes of the care leavers they are responsible for. There is a risk of this leading to tokenistic consultation that need not be factored into the final offer. In our experience, consultation with young people that does not commit to taking young people's views into account can be a particularly frustrating experience. The guidance should urge local authorities to take care leavers' views into account and to provide good reasons if they fail to do so.

The guidance is not sufficiently clear in respect of what care leavers can expect when they are out of area. This is important for the reasons set out above.

## Personal Advisor extension

The requirement in section 3 of the Children & Social Work Act 2017 to require local authorities to offer Personal Adviser support to all care leavers up to age 25 is welcome. The Howard League is a founding member of T2A, a coalition of third sector organisations that recognise the distinct needs of young adults aged 18 to 25.

We have two concerns about the roll out of this new requirement which puts the onus on the young person to inform the local authority of their desire for continued personal advisor services.

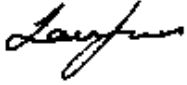
First, the Annex D guidance does not sufficiently encourage the local authority to proactively inform care leavers of the benefits of continued support from a personal advisor. Local authorities are guided to "discuss" whether the young person wishes to continue. It is well known that children in care often have low expectations and may not ask for services without proactive encouragement. On the contrary, the guidance reinforces the notion that the government "would expect support for care leavers to taper away over time", "in line with the decreasing support that is provided by parents of young people in the general population." Yet many young people in the general population continue to enjoy the support of their parents to well beyond their 25<sup>th</sup> birthday.

Second, the guidance states that "any adult services or support already provided by other local authority Departments, such as Housing and Adult Social Care, are not affected by the extension of Personal Advisor support to care leavers to the age of 25, and should therefore continue to be provided and funded by the relevant Department, where appropriate" (§7). In our experience, there is a risk that other services may not provide services in the first place

where children's services continue to provide a service. It would therefore be helpful for the guidance to state explicitly that the Personal Advisor service is "on top" of other statutory services and should not be taken into account adversely when determining eligibility for other services, as this would be against the spirit of the provision.

We would be happy to meet with you to discuss any of these points further.

Yours

A handwritten signature in black ink, appearing to read 'Laura Janes', written in a cursive style.

Dr. Laura Janes  
Legal Director