

More than a roof overhead  
What home means to children in  
trouble with the law

## Howard League for Penal Reform

### Key points

- Children leaving custody need more than just a roof over their heads
- Almost 100 children and young people in prison or at risk of criminalisation told the Howard League for Penal Reform what they thought a home should be like
- Children said they wanted to feel loved, be cared for and feel happy and safe; they rarely mentioned material goods
- There are clear legal duties on statutory services to ensure children leaving prison have suitable accommodation and support that takes into account their wishes and feelings
- Effective resettlement is key to reducing the risk of reoffending
- Evidence gathered by the Howard League and inspectorate reports show that too often resettlement planning is wholly inadequate
- Listening to what children want and making sure children leaving custody have a home to go to where they feel safe and cared for is essential if they are to settle into communities successfully and lead crime-free lives

## The Howard League's work on the resettlement needs of children in prison

In 2002 the Howard League for Penal Reform succeeded in a legal challenge to the assumption that the protections of the Children Act 1989 did not apply to children in prison. The High Court decision, *R (The Howard League) v the Secretary of State for the Home Department* [2003] 1 FLR 484, triggered a wealth of child protection measures for children in prison and the creation of the Howard League legal service for young people under the age of 21 in prison in England and Wales. Building on the charity's inaugural case, the legal work has focused on the need to ensure the needs of children are met, both in prison and in preparation for their release through a string of reported court cases (Howard League, 2017).

The Howard League legal service is entirely shaped by the needs of the children and young people it aims to support. Young people in prison can contact the specialist team of lawyers directly through a free and confidential advice line. The team receives more than a thousand enquiries each year. In the twelve months leading up to March 2018, we received 280 calls by or on behalf of children under 18. One fifth of these were about inadequate preparation for release. The team has represented hundreds of individual children to secure packages of accommodation and support on release by listening to what they want and challenging the statutory agencies who are legally responsible for them to provide it.

In addition to direct legal work, the Howard League has developed public legal education materials in partnership with young people and professionals to help them better understand the law (Howard League, 2012; Howard League, 2013). Participation work with young people and adults supporting them informs the charity's wider policy work.

This report brings together the Howard League's legal and policy expertise concerning access to accommodation and support for children in the criminal justice system and young people's views on what a home should be.

## Better resettlement reduces the risk of reoffending

Stable accommodation can result in a reduction of more than a fifth in reoffending rates in adults (Social Exclusion Unit, 2002). Research by the Youth Justice Board (2007) found that 40 per cent of children in custody had previously been homeless or have sought formal housing support.

More recently, Bateman et al have concluded that there is clear evidence that where resettlement provision for young people is afforded the necessary priority and dedicated resources are deployed, it is possible to achieve impressive results that improve recidivism outcomes and make significant financial savings (2013). In the words of a young advisor writing for a Howard League report on resettlement and the legal rights of children and young people in 2012, "resettlement is important so that you move on. So that you can forget about the past and think about the future. You're not giving people a chance if you're sending people back to the same thing and the same patterns they were in before".

Similarly, in a joint report on resettlement for children by Her Majesty's Inspectorate of Probation, Care Quality Commission and Ofsted (2015), the benefits of good accommodation and support were recognised:

"We saw some excellent work both in custody and in the community, and for a small number of children, this hard work had contributed to successful resettlement back into the community. Those children had not reoffended. They had been helped to find and maintain suitable accommodation, they were engaged in education, training or employment and they told us about how they had changed the way they thought about themselves and their future. They were determined to make a new start and to stop offending."

Effective reintegration into society fits squarely within what McNeil and Schinkel (2016) refer to as the second and third levels within desistance theory, namely a sense of identity and belonging in society.



## What the law requires for children leaving custody

The close relationship between desistance and effective reintegration is recognised in international and national law.

### International law

The United Nations Convention on the Rights of the Child (UNCRC), which has been signed by all UN member states, bar the United States of America, requires states to treat children in conflict with the law in a way that “promotes reintegration and the child’s assuming a constructive role in society” (Article 40).

Similarly, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, states that “[t]he Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society” (Rule 80).

The European Prison Rules state that “all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty” (Rule 6) and “additional assistance shall be provided to children who are released from prison” (Rule 35.3).

The European Rules for juvenile offenders subject to sanctions and measures go further: they require children in prison “be guaranteed a variety of meaningful activities and interventions according to an individual overall plan that aims at progression through less restrictive regimes and preparation for release and reintegration into society” (Rule 50.1).

### English law

In English law, the purpose of the criminal justice system for children is to prevent reoffending (section 37, the Crime and Disorder Act 1998). National Standards, set by the Youth Justice Board, require that needs of young people in custody are addressed in a co-ordinated and holistic way to enable effective resettlement (standard 9, YJB 2013). Youth Offending Team workers, who are responsible for the criminal justice supervision of children, are responsible for assessing accommodation needs prior to transfer to the community, ensuring that satisfactory accommodation is available prior to release (standard 9.44).

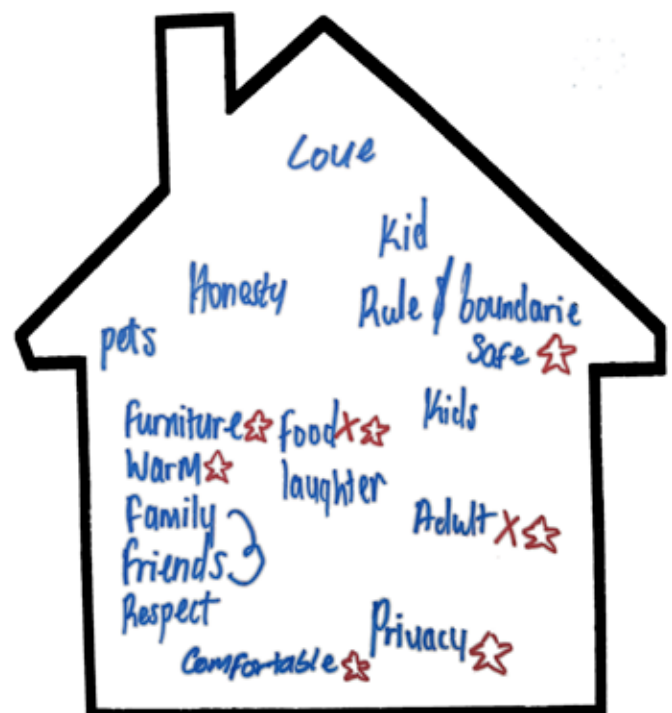
If a child cannot return home and the child is not already in care, social services are required by section 17 of the Children Act 1989 to assess the child’s needs. If the child is unable to achieve a reasonable standard of health or development without help from social care and requires suitable accommodation, section 20 of the same Act

requires that the local authority provide it. The same provision requires that local authorities take into account the wishes and feelings of the child so far as is practicable.

While it is possible for some children aged 16 and 17 to be provided with accommodation available to homeless adults, this should only happen if the child refuses support from social services on an informed basis. This is because “[t]here is all the difference in the world between the services which a child can expect from her local children’s services authority, to make up for the lack of proper parental support and guidance within the family, and the sort of help which a homeless young person...can expect from her local housing authority” (R (M) v Hammersmith and Fulham [2008] 1 WLR 535 at paragraph 24).

Once a child is looked after, local authorities take on a quasi-parental role. Corporate parenting principles in force as of 1 April 2018 for looked after children and children leaving care “describe the behaviours and attitudes expected of councils when they are acting as any good parent would do by supporting, encouraging and guiding their children to lead healthy, rounded and fulfilled lives” (Department for Education, 2018).

The statutory guidance on the legal duties owed towards looked after children leaving prison require that children are provided written information about their release package as soon as possible and no later than ten working days before release (paragraph 8.80, Department of Education, 2015).





## Resettlement provision for children in prison is inadequate

Inspection regimes for children in prison routinely measure resettlement. A joint report by three inspectorates on the resettlement of children leaving prison concluded that children were failing to lead crime-free lives because they were not properly supported on release (Her Majesty's Inspectorate of Probation et al, 2015):

“In England and Wales, over two-thirds of children reoffended within 12 months of release from secure institutions. Of the 29 children we tracked from custody into the community, only one-quarter fully complied with their supervision. These are shocking statistics. Shocking because we have known for at least a decade what helps children leaving custody to stop offending; and shocking because too few of these children are being provided with what they need to lead crime-free lives.”

In his 2016–2017 Annual report, the Chief Inspector of Prisons found that some “good efforts” by professionals to prepare children for release were “too frequently...undermined by a lack of accommodation”. Despite the clear legal duty to support looked-after children, at each inspection he “found examples of children not knowing where they would live until the day of release, children being released into unsuitable bed and breakfast accommodation and, inexcusably, children released to no address at all” (page 66, HMIP, 2017a). Less than half of children who responded to surveys by HMIP (41 per cent) in 2017 felt that they had a say about what would happen to them when they were released (page 40, HMIP 2017b).

These concerns about poor resettlement for children leaving prison are mirrored in the calls to the Howard League's legal advice line in 2017. The team received 67 new enquiries about resettlement. The vast majority (56) related to children not having suitable accommodation identified prior to release. The Howard League received enquiries concerning:

- children who were put in emergency accommodation on the day of their release
- children who were unable to go back to their home area because of an exclusion zone
- children who were being released to their family homes even though it was not suitable
- children who felt they were not consulted about their release plans or did not agree with their release plans
- children who received unsuitable or inadequate

- packages of support from social services
- children who received no support at all from social services despite having nowhere to live on release.

In every case the Howard League supported the child, either providing them with expert advice and representation or referring the child to another solicitor for support to challenge the failings by the relevant authorities. The reality in such cases is that all professional energy is so focused on finding an address for the child, that creating a full package of support in an environment that the child wants and where the child will feel safe and cared for is often seen to be unattainable.



## Listening to children and young people about what makes a home

As part of the Howard League's participation work, funded by the Big Lottery and the European Commission in partnership with Defence for Children International, 96 children and young adults were asked what home meant to them.

The Howard League worked with these children and young people through mixed methods including questionnaires to children in custody and participation workshops with children in contact with the criminal justice system, including children in secure training centres, secure children's homes and prisons and children in care.

Of the 96 children and young people, 71 were male and 18 were female. Seven children and young people did not state their gender. The children and young people ranged in age from 13 years to 24 years, with the majority aged 16 and 17. The majority (85 per cent, 81 in number) of the children and young people were in secure

custody, either in a secure children's home, a secure training centre or prison. Given that on average there were 868 children in custody in 2017, this represents a significant sample of this population. The remaining 15 per cent comprised workshops for children in care in the community in light of Howard League research that children in residential care are at high risk of criminalisation (Howard League, 2016).

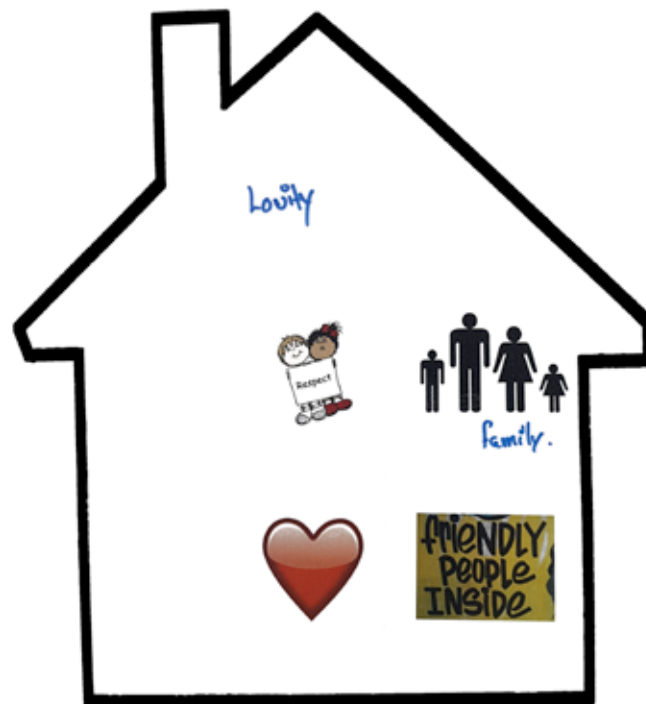
The children and young people were given an outline of a house and were asked to write some words or draw pictures to describe what makes a good home.

### Key messages

Children and young people have told the Howard League that they want more than just a roof over their heads on release; they want a home. They want to feel wanted and cared for. They want to feel safe.

Children rarely focused on material goods: children focused on love and belonging ahead of their physiological needs. In most instances, when they did mention resources or possessions, they focused on food, warmth and furniture.

The ten most common words or pictures used by children and young people to describe a good home are shown in the pie chart. Family was the most frequent word used, followed by love. Happiness was slightly more popular than care. Safety, food and drink and respect were equally important issues for young people but were cited more frequently than heat.



### Family

Over half children and young people said family made a good home. Sometimes young people qualified this. One young person said a good home was 'a happy and supportive family, no worries like money problems, debts or bills and good behaved children'. Another stated a 'loving family'. One mentioned the close bond with family members. Most just put family. It was beyond the scope of this research to explore whether children were thinking of loving families that they were currently separated from by custody or whether they were thinking of a family that they would like to have.

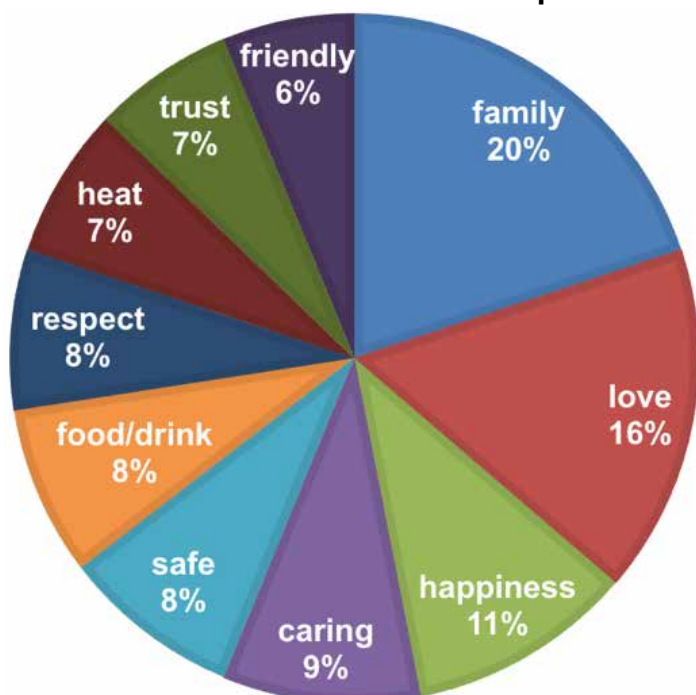
### Love, happiness and friendly

The second most important factor for a good home was love, cited by just under half the children and young people. Several young people drew hearts to emphasise this. One young person wanted a 'happy, loving, friendly, caring [sic]' home. Another said home meant 'being loved'. There was a clear sense that above all children wanted to feel wanted.

Around a quarter of children and young people said happiness or laughter made a home. One child specified a good home should be 'fun'. Several children and young people wanted a home to be "friendly" or have friendly people inside it.

The heavy emphasis on love, happiness and friendliness throughout the young people's responses suggests that the atmosphere within the home was more important to young people than the physical conditions of the building.

**What makes a home:  
the ten most common words or pictures**



## Care and support

Around one quarter of children and young people said caring made a home. One young person told us 'When someone cares about you, you feel happier'. Another said a good home was 'A home where people help you, care for you, trust you'. One child wanted a home with 'good and caring staff' and 'people who get people'. Another thought a good home was where 'people listening [sic] to u'. One child described a good home as 'a place you'd always wanna come to'.

A small number of children and young people thought a good home was somewhere where people were supportive or helpful. Some young people wanted support to meet their specific needs. For example, one young person told us a good home was where 'staff know sign language'.



## Safety and respect

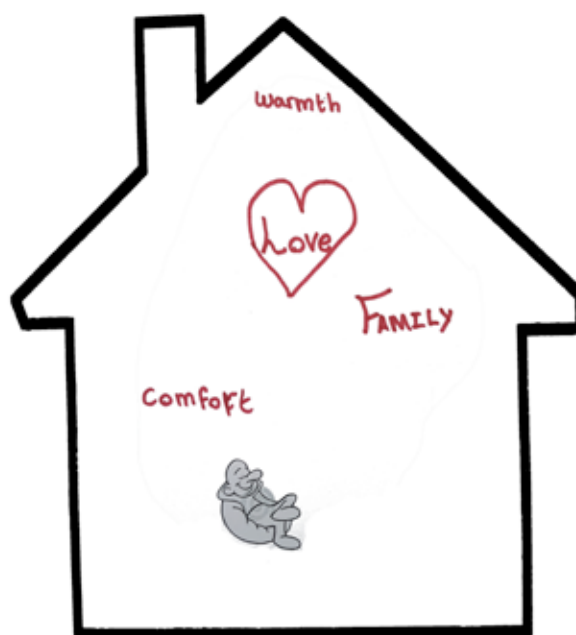
Over a quarter of children and young people cited safety as an important factor. One young person thought home should be 'somewhere to escape from the cruel outside world/reality' and 'a place you feel safe/loved'. Another child told us home was where you 'feel safe, get looked after, be supported'.

Some of the young people specified the type of area a good home should be in. One young person said a good home meant 'a good area of low crime, family, stability, no drugs, no alcohol and financially healthy'. Other children thought a good home should be in a 'good area'.

Almost one fifth of children and young people wrote respect. One young person thought home meant 'respecting one another and treating people the way you want to be treated'.



It was beyond the scope of this project to explore the extent to which children and young people had experiences of being unsafe in their living environments, although the 2016–2017 annual report by HMIP made grave findings about the lack of safety within the prison estate for children. HMIP's own surveys showed that 46 per cent of boys felt unsafe in their establishment.



## Food and drink, warmth and comfort

Around one fifth of young people focused on food and drink or warmth and comfort. One young person stated 'comfortable, stable, warm, food in the fridge'. Some children were very specific in wanting to have 'gas' and 'electricity' possibly indicating that this had been an issue for them in the past.

This indicated children may have experienced a lack of food in the fridge, let alone healthy meals or a lack of warmth in the past.



## Reflections

For many children and young people in prison home is not about a roof overhead or the quality of the physical building so much as how it feels. Children told us that to them a home means family, love, happiness, care and safety. Children and young people want to feel wanted in their homes. Children rarely prioritised material goods in their vision of what home meant to them.

If care and support for children in the criminal justice system is to be effective, it needs to strive to achieve real homes for children where they feel cared for and wanted so that they can make a fresh start. Planning must take into account the wishes and feelings of children as required by law.

The evidence base and the law are clear. Effective resettlement is key to reducing the risk of reoffending. There is a legal duty to ensure children's needs are met and they are provided with suitable accommodation and support that factors in their wishes and feelings so far as practicable.

Yet, children are still facing imminent release from custody with no or inadequate support in place.



It is essential that law and reality converge. The first step is to make children's voices heard so that professional thinking in this area takes what children want for a home as the driving force behind resettlement work. This in turn will increase the chances of children being released to a home where they feel safe and wanted and better able to build positive, crime-free lives.

## Jasper: a case study

Jasper (not his real name) took part in one of the Howard League participation workshops about resettlement and the law while he was in a secure unit. When asked what makes a home, Jasper wrote 'laughter, comfy, family, friends and chilled out'.



Howard League lawyers had been working with him as he was due to leave custody in three weeks but had no idea where he was going.

Jasper thought he might have to go back to live with a family member who did not want him, an arrangement that was bound to fail. He was extremely distressed and feared both being forced to return to the family home where he felt he was not wanted and not knowing where he would live.

Howard League lawyers contacted his home social services department, setting out his needs, wishes and feelings based on what he had told us both through our legal work with him and what he had put in his picture (above). Detailed representations were made to children's services that there was a legal duty to provide him with a home as a "looked after child". In response to the Howard League's representations, social services agreed to provide him with appropriate care and support in a children's home.

The manager of the children's home visited him in custody, prior to release, in order to get to know him. After he was released, Jasper told the Howard League that he felt happy; the placement matched his idea of what made a home and he felt relaxed and cared for there.

## Howard League reports

Howard League for Penal Reform (2012) Resettlement: the legal rights of children and young people in the criminal justice system in need of accommodation and support. London: Howard League.

<https://howardleague.org/wp-content/uploads/2016/04/Resettlement-law-guide.pdf>

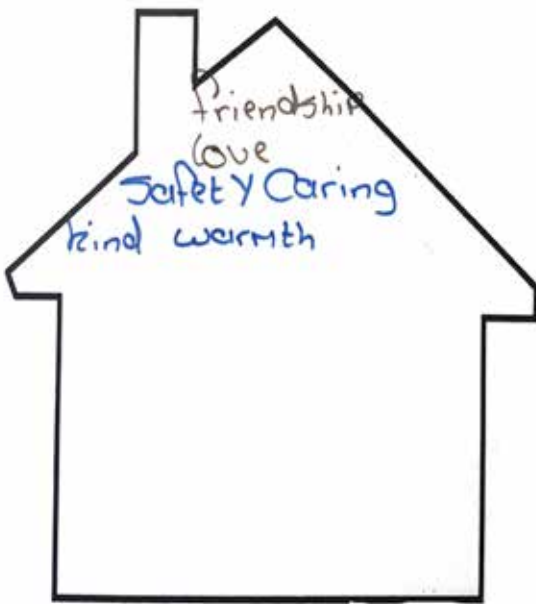
Howard League (2011) Life Outside: collective identity, collective exclusion. London: Howard League.

[https://howardleague.org/wp-content/uploads/2016/05/Life\\_outside.pdf](https://howardleague.org/wp-content/uploads/2016/05/Life_outside.pdf)

Howard League (2017) Justice for young people: 15 years of successful legal work. London: Howard League.

<https://howardleague.org/wp-content/uploads/2017/11/Justice-for-Young-People.-15-years-of-successful-legal-work.pdf>

A full list of references is available at [www.howardleague.org/publications/](http://www.howardleague.org/publications/)



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### Defence for Children International (DCI)

The Howard League is working in partnership with Defence for Children International (DCI) Belgium on an international project to improve the implementation of juvenile justice standards.

Children's Rights Behind Bars is financed by the European Commission within the framework of the Criminal Justice Programme. Further information about the project can be found at <http://www.childrensrightsbehindbars.eu/>

### Big Lottery

As part of a Big Lottery funded project, the Howard League has used participation work to empower children young people and professionals to understand, use and shape the law.

### About the Howard League for Penal Reform

The Howard League is a national charity working for less crime, safer communities and fewer people in prison.

We campaign, research and take legal action on a wide range of issues. We work with parliament, the media, criminal justice professionals, students and members of the public, influencing change and forcing through meaningful change.



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