

1

INTRODUCTION TO THE ALTERNATIVES TO CUSTODY PROJECT

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The background

This book is one of the main outcomes of a two-year pan-European project entitled “Alternatives to Custody for Young Offenders: Developing intensive and remand fostering programmes”. It has been funded by the European Commission’s Daphne III programme, with the British Association for Adoption and Fostering (hereafter BAAF) as co-ordinators and applicants.

The project has been driven by the ambition to test out, at a European level, a number of perceptions and beliefs that, in combination, formed our starting point:

- that foster care, when it can be delivered to high quality standards by committed carers with empathy for the young person, and with the training, supervision and support they need,¹ can significantly benefit, and sometimes transform, the life chances of the large and vulnerable group of children in conflict with the law in Europe who find themselves at risk of institutional placement or imprisonment;
- that the development of a positive relationship,² and the quality and strength of that relationship, between a carer and a young person, and also between youth justice or social work professionals and a young person, can be central to the process of change for these young people;
- that adolescents have all the difficult challenges of being in transition, which could be better overcome by social and educational support instead of punishment;
- that involvement in youth crime is of an episodic nature, which normally gives way to integration into family and occupational life in early adulthood provided that the necessary opportunities and support can be made available (Dünkel, 2012);
- that the provision of foster care for children in conflict with the law has the additional merit of bringing together two institutional realms – child welfare and youth justice – that too often have been allowed to bifurcate to the detriment of joined-up approaches to meeting the needs of these very vulnerable children;
- that decisions about children who have infringed the law should primarily reflect their status as children, and focus on their best interests and longer-term development, rather than their offending behaviour (National Association for Youth Justice, 2015).

The availability of funding from the European Commission, under its Daphne III programme, promoting the goals of child-friendly justice,³ gave us precisely this opportunity to test out these perceptions in collaboration with a team of international partners who shared this interest in whether we could establish a case for an enhanced role for a foster care service fully compliant with the standards demanded by child-friendly justice in European youth justice systems.

The approach we took was to undertake an exploration of relevant practice and research,

1 www.frg.org.uk/images/Policy_Papers/care-inquiry-full-report-april-2013.pdf

2 www.google.co.uk/?gfe_rd=cr&ei=gtDbVOaGB_Oq8weS84CACQ&gws_rd=ssl#q=NAYJ+who+works+rather+than+what+works+ali+wigzell

3 See www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp for the Council of Europe’s child-friendly justice materials, including the text of the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (*Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies*)

Alternatives to custody

including qualitative research in our four partner countries (Bulgaria, Hungary, England, Italy), from which to develop a good practice model for the use of intensive and remand fostering programmes as alternatives to custody for young people in conflict with the law. To fulfil our aim we have had to draw on a range of material and expertise from the professional worlds of both foster care and of youth justice, and pull together these two spheres of knowledge in framing our conclusions. Our partners in Bulgaria, Hungary, Italy, as well as BAAF in England, have each provided chapters in this book, translating the project's findings into the practical language of policy to explore the role that specialist fostering might play in their country's youth justice system.

This book then sets out the "protocol of intervention" that forms the conclusion of our project.

The international context

The project's context is defined by the international and regional instruments that set the standards for youth justice, most importantly the 1989 UN Convention on the Rights of the Child, a binding international treaty that all European states have ratified. It makes clear that the principal aim of youth justice should be to act in the "best interests of the child" – "child" defined as any person under the age of 18 – and to provide education, support and integration into society for all children 'alleged as, accused of, or recognised as having infringed the penal law' (UN, 1989; Dünkel and Pruin, 2012). These ideas are developed in subsequent European instruments (see Chapter 2).

Furthermore, the *European Rules for Juvenile Offenders Subject to Sanctions and Measures* make clear that the imposition of custody should be a last resort for juveniles in conflict with the law, and only imposed for the shortest period possible. Special efforts must also be undertaken to avoid pre-trial detention. As Dünkel and Pavin (2012) say, 'Everywhere it is proclaimed that deprivation of liberty should be a measure of last resort. In practice the level of what is meant by "last resort" varies across time and in cross-national comparison.'

These rules and requirements of the UNCRC and other instruments are in place for good reason. The evidence is irrefutable that custody for juveniles in conflict with the law can, at worst, be profoundly dehumanising, a criminogenic environment that pays short shrift to children's UNCRC rights, while, at best, it fails to address the developmental needs of the young people housed in these institutions of detention, exacerbating their problems and damaging their life chances. For example, a recent study shows that violence in institutions for juvenile offenders is prevalent, with half of the 37 European Member States respondents indicating that they consider violence in institutions to be of "serious" or "very serious" concern (Liefwaard, 2014).

The UNCRC cannot of itself guarantee child-friendly youth justice regimes. As Goldson and Muncie (2012) comment, 'The UNCRC is ultimately permissive and breach attracts no formal sanction. In this sense, it may be the most ratified of all international human rights instruments but it also appears to be the most violated, particularly with regard to juvenile justice ...'

The use of custody in European youth justice

There are many variations, with regard to age limits, other legal preconditions and the duration of institutional placements, in the types of institutions in which juveniles can find themselves when deprived of their liberty. However, in all countries, young people under 18 who have committed an offence can be convicted and sentenced to (youth) imprisonment, which they serve in adult prisons, or in separate juvenile institutions, or in welfare institutions. Both the minimum age at which a young person can be imprisoned in Europe and the duration of custody vary considerably.

Examples of youth imprisonment regimes

- **Portugal:** for 12–16-year-old juveniles: maximum 3 years
- **Sweden:** for 15–18-year-old juveniles: maximum 4 years
- **England:** maximum youth prison sentence: 2 years
- **Netherlands:** maximum 2, exceptionally 7 years
- **Germany, Greece:** maximum 5, exceptionally 10 years⁴

Age structure of inmates in youth prisons

Examples:

- Austria: 14–27
- England and Wales: 10/12/15–18/21
- France: 13–18/23
- Germany: 14–25
- Greece: 15–25
- Netherlands: 12–23
- No youth prisons in Sweden (instead, secure youth care)

Trends in the use of custody

In countries where there was a rise in the youth prison population during the 1990s and early 2000s (e.g. England and Wales, France, Netherlands), the numbers have decreased significantly in recent years. There has also been a recent decrease in most central and eastern European countries, with the onset of lower levels of custodial sanctions and higher levels of community sanctions and measures.

However, Table 1.1, based on the most recent published data, illustrates the persistence of child imprisonment as a component of most European prison populations.

4 This and the ensuing comparative data on custodial regimes in European youth justice were provided by the IJJO presentation 'Trends in European Juvenile Justice and the Role of Foster Care, by A. Parosanu and colleagues at the project's final conference on 2 Dec 2014 in Brussels.

Alternatives to custody

Table 1.1
Proportion of juveniles in each European country's prison populations by percentage

Country	Juveniles/minors/young prisoners including definition – percentage of prison population	
Faroe Islands (Denmark)	NO DATA	NO DATA
Andorra	0.0%	September 2013 – under 18
Gibraltar (United Kingdom)	0.0%	27.11.2009 – under 18
Guernsey (United Kingdom)	0.0%	24.10.2014 – under 18
Isle of Man (United Kingdom)	0.0%	9.11.2014 – under 18
Liechtenstein	0.0%	31.12.2012 – under 18
San Marino	0.0%	1.9.2012 – under 18
Spain	0.0%	November 2014 – under 18; 1.1% under 21
United Kingdom: Northern Ireland	0.0%	30.9.2013 – under 18
Azerbaijan	0.1%	of sentenced prisoners, 1.9.2012 – under 18
Norway	0.1%	1.9.2013 – under 18
Albania	0.2%	September 2014 – under 18
Bosnia and Herzegovina Federation	0.2%	1.9.2012 – under 18 at date of sentence
Denmark	0.2%	1.9.2013 – under 18
Sweden	0.2%	1.10.2013 – under 18
Finland	0.3%	average, 2013 – under 18
Montenegro	0.3%	September 2013 – juveniles
Russian Federation	0.3%	of convicted prisoners, 1.1.2014 – under 18
Ireland, Republic of	0.4%	of sentenced prisoners, 31.12.2014 – under 18
Moldova, Republic of	0.4%	of sentenced prisoners, 1.7.2014 – under 18
Poland	0.4%	30.9.2013 – under 18
Switzerland	0.4%	4.9.2013 – under 18
Armenia	0.5%	1.1.2013 – under 18
Portugal	0.5%	15.10.2013 – under 18
Cyprus, Republic of	0.6%	of those held in the prison, 1.9.2012 – under 18
Czech Republic	0.6%	31.12.2014 – juveniles

Introduction to the Alternatives to Custody Project

<i>Country</i>	<i>Juveniles/minors/young prisoners including definition – percentage of prison population</i>	
Iceland	0.6%	1.9.2013 – under 18
Italy	0.6%	30.6.2014 – under 18; including those in institutions for minors
Slovakia	0.6%	1.10.2014 – under 18
Slovenia	0.6%	30.6.2014 – under 18
Ukraine	0.6%	1.1.2015 – prisoners in young prisoner colonies
Belarus	0.7%	31.12.2009 – under 18
Belgium	0.7%	1.9.2011 – under 18
Luxembourg	0.7%	1.9.2013 – under 18
Serbia	0.7%	1.9.2011 – under 18
United Kingdom: Scotland	0.7%	31.10.2014 – under 18
Bulgaria	0.8%	October 2013 – under 18
Georgia	0.8%	30.9.2014 – under 18
Macedonia (former Yugoslav Republic of)	0.8%	December 2013 – under 18
United Kingdom: England & Wales	0.9%	30.9.2014 – under 18. In addition to these 730 juveniles, a further 240 were being held in Secure Training Centres and 84 in Local Authority Secure Children's Homes
Lithuania	1.0%	1.1.2014 – under 18
Estonia	1.1%	29.12.2014 – under 18; not including prisoners in police arrest houses
Latvia	1.1%	April 2014 – under 18
Malta	1.1%	August 2013 – under 18
Romania	1.1%	27.1.2015 – under 18
Croatia	1.2%	25.11.2014 – under 18
France	1.2%	1.7.2014 – under 18
Turkey	1.2%	5.1.2015 – under 18
Jersey (United Kingdom)	1.5%	17.11.2014 – under 18
Netherlands	1.5%	30.9.2013 – under 18
Austria	1.6%	1.1.2013 – under 18

Alternatives to custody

Country	Juveniles/minors/young prisoners including definition – percentage of prison population	
Kosovo/Kosova	2.2%	15.11.2013 – juveniles
Hungary	2.7%	31.12.2013 – under 18
Germany	2.9%	of pre-trial prisoners only, 30.11.2014 – under 18
Bosnia and Herzegovina; Republika Srpska	3.3%	31.12.2014 – under 18 at date of sentence
Greece	4.7%	1.1.2012 – under 18
Monaco	10.3%	September 2013 – under 18

Source: Institute for Criminal Policy Research – the proportion of juveniles in each country’s prison populations: www.prisonstudies.org/map/europe

Alternatives to custody

Diversion and restorative justice

The majority of countries provide informal ways of dealing with youth offending (except for the more serious offences) through diversionary measures (Belgium 80%, Germany 70%) and by giving priority to alternative sanctions over deprivation of liberty. Increasingly, restorative justice measures (such as mediation, conferencing, reparation schemes) have also gained in importance.

The role of foster care in youth justice

A recent comprehensive meta-analysis (Lipsey *et al*, 2010) of the effects of intervention programmes for young offenders discerned two contrasting philosophies characterising interventions:

- the first featured external control techniques for suppressing delinquency and included programmes oriented toward instilling discipline (such as paramilitary regimens in boot camps), programmes aimed at deterrence through fear of the consequences of bad behaviour, and programmes emphasising surveillance to detect bad behaviour (such as intensive probation or parole supervision);
- the second, and contrasting philosophy, however, involved attempts to bring about behaviour change by facilitating personal development through improved skills, relationships, insight and understanding. This therapeutic philosophy included restorative measures (such as restitution, victim–offender mediation), skill building (for example, cognitive-behavioural techniques, social skills, academic and vocational skill building), counselling (individual, group and/or family counselling; mentoring), and multiple co-ordinated services (such as case management and service brokering).

When the mean effects on re-offending rates were compared for the programmes associated with these two broad approaches, those with a therapeutic philosophy were notably more effective than those with a control philosophy.

The ethos of specialised foster care for children and young people in conflict with the law is an illustration of the therapeutically-oriented philosophy that Lipsey’s research found to be associated with better outcomes, and of how social welfare systems and juvenile justice systems might offer integrated holistic services in the interests of children.

In terms of the definition of foster care, most experts associated with this project defined foster care as a placement with non-related carers, though in some countries (Estonia, Finland, Poland) other types of placement were also defined as “foster care”, for instance, placement in foster care institutions (such as family foster homes).

At present, in most European countries, foster care does not play an extensive role in the field of juvenile justice. Foster care is used in countries covered by our survey in the context of children’s welfare, where the well-being of children is at risk and families cannot provide adequately for their care. But in the majority of countries, there are no legal provisions for foster care as a response to offending, or the provisions may exist but are not applied in practice.

Table 1.2
Foster care in European juvenile justice systems

<i>No foster care</i>	<i>Foster care as a (direct) response to juvenile offending possible in theory, but not used in practice</i>	<i>Foster care provided and used in practice</i>
Austria	Belgium*	England†
Croatia	Cyprus	France*
Denmark	Czech Republic	Netherlands†
Estonia	Germany	Sweden
Finland	Greece	
Ireland	Luxembourg*	
Italy	Poland*	
Lithuania	Portugal*	
Romania	Slovakia	
	Slovenia	
	Spain	

(Adapted from Parosanu, A. Alternatives to Custody, Final conference, Brussels 3 Dec 2014)

* Strong welfare approach in the juvenile justice system

† Treatment foster care scheme

In countries following a welfare model (like Belgium, Luxembourg and Poland), the use of foster care as a response to juvenile offending, as an educational welfare measure, is legally available, but in fact seldom used in the youth justice context. For example, in Belgium,

Alternatives to custody

foster care would be regarded as a non-standard response, and given the shortage of foster placements it is seldom a practical option. Again, in Poland, since 1982 it has been possible to place in foster care a juvenile committing a “punishable act”, but in 2012 such placements were restricted to professional foster carers and only a few such placements have been made each year.

Other countries focusing on a justice approach sometimes provide for the placement of young offenders with non-related persons, which may formally become foster care placements (like Germany and Cyprus). But in most countries, the provisions are not used in practice, and foster care is located as a service of the child welfare system, and juvenile offending is dealt with separately in the criminal justice system.

Treatment foster care

Another option explored as a response to juvenile offending can be found in England, Netherlands, and Sweden, and consists of “treatment foster care”. It represents a special type of therapeutically-focused measure imposed by the youth court.

In England, the idea of foster care that provides *treatment* as well as *care* for adolescents is not new; many schemes have been developed since the 1980s and come in various models and with various names: Treatment Foster Care (TFC), Specialist Foster Care (SFC), and Therapeutic Fostering, with Multidimensional Treatment Foster Care (MTFC) probably the best known.

Currently foster care is an option when juveniles are on remand (remand fostering – see below), when they are sentenced to a Supervision or Youth Rehabilitation Order (intensive fostering requirement) or at the post-custody stage (e. g. while on licence from a Detention and Training Order).

Intensive fostering

Intensive fostering, as a requirement of a Youth Rehabilitation Order, can only be applied in cases that otherwise would have attracted a custodial sentence. Research (Biehal, 2014) on intensive fostering to date suggests significant positive effects while young people are in placement. But a major challenge resides in these benefits being concentrated in the first year of the intervention, with no difference a year after leaving an MTFC placement.

Action for Children (AfC) in England has been a notable and innovative service provider for specialist fostering programmes, having placed over 450 children in either remand, post custody or MTFC placements (as an alternative to custody) since they began delivering these services some years ago. Their delivery of the MTFC programme, based on the Oregon model, has involved, in addition to support for foster carers, family therapy for biological parents, and skills training and supportive therapy for young people. Since 2005, the average success rate of Action for Children’s MTFC programmes has been 75 to 85 per cent. Outcomes have included a decrease in offending, engagement in education, and a return to the birth family and mainstream foster care. **Post-custody fostering** is also provided for young people, served under community supervision.

In the Netherlands, the MTFC programme can be applied as part of a non-custodial treatment order. This programme targets juveniles aged 12 to 18 years with severe antisocial

behavioural problems and a high recidivism risk. The programme runs from six to 12 months with the possibility of a one year extension. However, at present it is a very limited service. In 2011, the MTFC programme, as part of the non-custodial treatment order, was applied in the Netherlands only 11 times, though it has been argued that it could be appropriate for many more children.

Swedish legislation does not make a sharp distinction between child protection and youth justice, with the consequence that antisocial behaviour of youths under 20 years of age is a child welfare problem. One recent study examined treatment outcomes for 35 young people who were randomly allocated to either treatment by the MTFC programme or "treatment as usual" at two-years post-intervention. Generally, the results favoured MTFC over treatment as usual, suggesting that MTFC is an effective method in treating young people with behavioural problems in a Swedish context.

Remand fostering

Remand fostering can serve as an alternative to pre-trial detention. Placements in the UK are often included in the local authority's general foster care pools, but sometimes specialist foster care schemes are available for children on remand, managed by Youth Offending Teams, local authority children's services, independent fostering agencies and/or charitable organisations.

Action for Children in England has also been providing pioneering remand fostering and "alternatives to custody" schemes. These schemes aim to offer placements that provide a safe environment for a young person while they await trial or sentencing. AfC also advocates for young people in remand fostering. They do this effectively by working with other agencies, including YOTs, local authorities and trusts, child and adolescent mental health services (CAMHS), the courts, and approved specialist foster carers. Young people are encouraged to participate in planning and to give feedback on their placement.

Due process and consent

Thus there are some positive evaluation results for both remand fostering and intensive foster care schemes.

As our review of a range of specialist fostering schemes makes clear, fostering can be of very positive benefit for children in conflict with the law at different stages of the process. From the viewpoint of international juvenile justice standards, some may argue that, where imposed at the direction of a court, foster care can only be seen as good practice if the implementation of foster care schemes ensures that foster care is used only as a last resort and as an alternative to institutional care placements with restrictive regimes. It will also be important for the workability and potential success of arrangements that the consent of juveniles and, where possible, their families, to fostering plans is secured. In situations where there is a lack of consent for fostering from birth families, a rights-based approach will put the young person's needs and best interests first, as child-friendly justice requires that due process, children's rights and children's effective legal protection and representation must always be safeguarded.

An outline of the book's structure

This book is in three parts: the context, interventions, training programme. It has been structured in this way so as to engage the interest of a wide variety of readers – those concerned with policy analysis and research in youth justice and children's services at both European and national levels; those concerned with advocating for and implementing change; and those concerned with training and delivery of services. Targeting the book at policy experts, managers, and practitioners in this way will enable them to support the roles of the other specialists whose collaboration is necessary for the development of foster care for young people in conflict with the law.

The "context" section of the book presents evidence and arguments to persuade policy makers of the value of specialist fostering for children in conflict with the law. The "interventions" section substantiates the case for developing and extending specialist fostering in our four partner countries with specific recommendations for changes in policy and practice. The comprehensive training programme and pan-European quality standards provide the practical means for professionals to prepare and train foster carers for this challenging but important branch of fostering.

The context

The introduction has brought into focus the goals of child-friendly justice, and the persistence of child imprisonment in many states, and then examined in more detail the limited role that foster care plays in youth justice, its benefits to children, and the potential for its greatly expanded use.

There follows an overview of promoting alternatives to detention for children in conflict with the law (jointly written by Eurochild and the International Juvenile Justice Observatory (IJJO)), that sets out the key international and European juvenile justice and children's rights standards, the EU policy context, and the components found in effective youth justice systems, including prevention, diversion and community-level services. The overview concludes with a call for an integrated approach to children's rights, a critique of the inertia that allows custodial sentencing to remain far too common, and strong advocacy of foster care as an alternative to custody that can bridge justice and welfare in the interests of delivering child-friendly justice.

Interventions

National policy overviews for Italy, Bulgaria, England and Hungary, contributed by experts from our partner countries, provide an honest and searching review of each country's achievements, needs, and shortcomings in youth justice – developments in all four countries are at different stages – and an assessment of the prospects for implementing an extended role for foster care in youth justice in the future. Each chapter concludes with recommendations which, if implemented with sufficient resources, determination and knowledge, would mark a significant step towards establishing or extending high quality specialist fostering services for young people in conflict with the law.

The following summaries of each partner's national policy guidelines convey each partner's

commitment to developing improved fostering services for children in conflict with the law, their sensitive analyses of the barriers to change, and their well-thought-out proposals and recommendations:

England – University of Bristol and BAAF, London

The chapter begins with summaries of relevant developments in the current youth justice system and its interface with fostering. Although there has been a reduction in the number of first time entrants to the system and young people in custody since 2009/10 in England, re-offending (in the 12 months following release from custody) remains high, at 35.4 per cent. Government strategies include improving risk assessment and existing youth custodial and resettlement provision, and controversially, new “secure colleges”. Community-based schemes for alternatives to custody are officially encouraged, but not widespread in practice.

There is evidence of promising results from a number of specialist fostering schemes, suggesting that quality foster care can improve life chances, reduce the risk of re-offending and also offer financial savings. Remand fostering schemes have also demonstrated their effectiveness.

Both remand and intensive fostering schemes need to be integrated within the wider system of children’s provision and interventions, and post-placement support is needed if benefits from the fostering interventions are to be successfully maintained. It is noted that children in conflict with the law still run the risk of being labelled and stigmatised, but advocacy and support from foster carers, who themselves are well trained and supported, can make a significant difference.

Finally, the writers argue that the future of specialist fostering schemes may depend on local authorities having new funding and incentives to invest on a substantial scale. Significant progress may hinge on devolution of custody budgets to local authorities and new regional commissioning arrangements. Such a structure also overcomes the unhelpful split between welfare and youth justice.

Italy – Università del Salento

Following a review of the regulation of foster care from civil, criminal, and international law perspectives, and a description of the discrepancies between current outcomes compared to the framework envisaged by the law, the University of Salento team considers the needs and problems of the actors in the foster care system conceived as an “ecosystem”, utilising the Secure Base model in this analysis.

They then draw attention to inadequacies in the allocation of resources to children’s care that are mirrored by a lack of professional training, infrastructure and available placements and the absence of a culture of fostering. The chapter highlights the urgent need to explore different and new forms of foster care, and the shortage of foster placements for adolescents, with 82 per cent of teenagers aged 14 to 17 placed in residential care, and only 18 per cent placed in foster families. It goes on to suggest a need to abandon traditional ideas of “family”, and to counter the perception of foster families as rivals in birth families’ relationship with their children, and instead regard foster carers as those with whom families can share responsibility for the care of their children.

Alternatives to custody

Given that around three-quarters of foster care placements (76%) are the result of judicial decree, and (in 2010) only 24 per cent of foster care placements were consensual, enhancement of the linkage between foster care and the juvenile justice systems is recommended.

The final section reviews the concept of “mild adoption” as a flexible form of longer-term care respectful of children’s roots and families of origin and analogous to intensive fostering; advocates a “clinical-practical” model of learning to promote development of new forms of foster care; and ends with comments on the opportunities and obstacles for an increased use of foster care for young people in conflict with the law.

Bulgaria – Social Activities and Practices Institute (SAPI) and Sofia University

The writers begin by examining the needs of children who engage in behaviours that conflict with the law highlighting, as key concerns, poverty and marginalisation, dysfunctional patterns of socialisation, experiences of abuse, mental health issues, and educational disadvantage. The varying behaviours that can lead to criminalisation are examined. The chapter then reviews current law and policy and professional systems governing child protection and juvenile justice; the crucial lack of structural connection between these two systems; the existing lack of alternatives to custody and the over-use of placement in institutional care; and how key institutions and professional groups can contribute to a positive change process.

The writers then set out what is needed for further progress: a new approach to inter-agency co-operation; opportunities to refer children in conflict with the law to children’s services in the course of investigation; consent at national level for implementation of the “Roadmap”, and at local level joint strategies and service level agreements between institutions.

The chapter concludes with the need for piloting intensive foster care in projects with NGOs; adopting standards for good enough treatment of adolescents at high risk; understanding the costs of new fostering services; awareness raising; regulatory change; strengthening the rights of all children in all legal procedures; and clearer mechanisms governing the relationship between the police and prosecution service on the one hand, and the system for child protection and social services for children at risk on the other.

Hungary – Family Child Youth Association, Budapest

The writer begins with an overview of child protection and juvenile justice systems dealing with children with challenging behaviour and children in conflict with the law. Concern, echoed by the observations of the UNCRC Committee,⁵ is expressed specifically about the recent lowering of the age of criminal responsibility, from 14 to 12, for a number of offences.

Various difficulties in the foster care system are then identified, including a lack of support for the ongoing relationships between fostered children and their families; a need for more

5 Concluding observations on the combined third, fourth and fifth periodic reports of Hungary, adopted by the Committee at its sixty-seventh session (1–19 September 2014), p8 38–39 par. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&TreatyID=10&TreatyID=11&DocTypeID=5

focus on reunification and reintegration; the absence of quality standards for foster care; the lack of specialist staff to support or supervise foster carers properly; and pressure on carers to accept a high number of children to gain adequate remuneration.

Although there have been moves towards de-institutionalisation and developing fostering, children with complex needs, including children who are offenders, are not specifically targeted by current policy, and no changes have been made in relation to the resourcing of the institutions in which they are placed.

In principle, children who have committed crimes could be placed in foster care, but to do this would require a modification of the Penal Code; a rethinking of the links between various relevant services; developing common standards; better training and development of professionals; and awareness raising of the positive outcomes achieved in other countries through specialist foster care, restorative and educational approaches. The chapter concludes that current policy drivers in Hungary in support of harsh punishment and “law and order” appear to be obstructing such developments.

Overview of focus groups and setting up a fostering service

Then follows a chapter that presents the key points emerging from our extensive focus groups held in different locations and in which we brought together institutional actors, a range of professionals and foster carers, birth families and young people. After setting out the rationale for the research methodology, key messages from the focus groups are summarised and themes identified.

A short chapter on setting up and operating a fostering service for children in conflict with the law is intended as a practical tool for operational managers, and covers the key stages in planning and developing a financially sustainable, quality fostering service.

Foster carer training and preparation programme and quality standards

This is the longest section of the book and provides a step-by-step training programme for preparing and training prospective foster carers new to fostering for the task of fostering children in conflict with the law.

The six sessions of the programme include all the material trainers and carers will need for this aim to be achieved, presented in a clear and practical way. At a number of points, users of the programme are invited to adapt or supplement the material by adding their own country-specific content. The programme reflects key messages from our partners on the areas to focus on if the support needs of vulnerable young people in conflict with the law are to be addressed by foster carers in a great variety of different country settings.

The commitment and skills of foster carers, and the work of fostering service providers, need to be sustained by a quality standards framework that encourages and supports excellence (by foster carers, social workers, and service providers) in child-centred practice. A chapter detailing proposed pan-European standards is therefore designed to complement the training programme.

Achieving a pan-European focus

It has been a challenge to ensure that this book is sufficiently wide-ranging in its focus to be a helpful and adaptable resource when used in different states' systems. An early learning point for us in BAAF, based as we are in the UK, was not just how different are the welfare and youth justice systems in the UK countries compared to our partner countries (Bulgaria, Hungary, Italy, and network NGO partners in Belgium), but the care needed to ensure that we developed an approach that was truly pan-European. At a factual level this has meant fully taking into account the consequences for the UK youth justice systems of its still retaining such a low age for criminal responsibility (in fact it is still 10), which is so out of step with most other countries, where the European average is 14, and with our international rights-based obligations. But at the deeper level of mutual understanding between partners, participants have recognised the sensitivity and clarity needed from all of us to ensure that this awareness has been carried forward to the work on this book, where we have strived to free the training and quality standards materials of any narrow Anglocentric inflexions, and to ensure that they remain relevant across cultures and varying state systems.

By the stage when the focus groups were being planned, we also identified the need to review the definition of our Project's remit.

This arose when we considered:

- the variations in the minimum age of criminal responsibility to be found in our partner countries and other European jurisdictions;
- the different terms and legal structures in use across European countries, which came to light through the IJJO's work as part of the project;
- the risk that children in some countries face of compulsory placement in institutional care as a result of being in conflict with the law without the "due process" safeguard linked to appearing before a juvenile court.

We therefore agreed to adjust our definition of the children we are concerned with, in order to make clear that our focus encompassed children at risk of compulsory placement in institutions as a result of being in conflict with the law as well as those at risk of being sentenced to custodial institutions following conviction. The effect of this adjustment has been to make the protocols of intervention more relevant and accessible across all European countries. At the same time, we continued to use the original concepts (of remand and intensive fostering) in relation to those European countries for which it is relevant (such as the UK).

Conclusion

The work undertaken by the Project has re-affirmed the commitment by all the partners to extending and promoting the use of foster care as a specialist resource for children in conflict with the law, although the agenda and methodology for advancing that goal will be different in each partner country.

Clearly, we advocate a variety of fostering models, and our training programme reflects this. So we recognise the value of setting targets with young people, the making of agreements, and the use of rewards and punishment for acceptable/unacceptable behaviour. All these techniques and skills have an important place in effective fostering. However, we also believe

in the value of strong training for foster carers in child development, attachment and resilience, and in understanding of the impact of deprivation, abuse and trauma, and we hope we have provided that.

We also give emphasis to the skills required for working as part of a team, and assuming and exercising the authority of one's role as a foster carer on behalf of the child in interaction with others, whether professionals or family members. Above all, perhaps, we seek to equip and encourage foster carers to provide, if only for a time-limited period, a trusted and trustworthy relationship for the young person. As we say in the chapter on quality standards:

Foster carers are the "secure relational base" for the children they care for even if this is shared with other significant adults in the child's life. From this secure base, the child's needs, development and well-being become the focus of the placement enabled by the foster carer's commitment, knowledge and expertise.

We have documented earlier the considerable distance European youth justice systems, as a whole, still have to travel to deliver child-friendly justice. In particular, the welfare of children in institutional and penal placements, subject to violence and deprivation, remains a profound concern.

Foster care can play a critically important role in remedying this. Fostering offers a direct alternative to custody, by providing an experience of safe care, nurturing relationships, boundaries and structured caregiving. It can also function as a flexible, time-limited resource, or as a way of creating family life when placements need to be longer term. Specialist foster care represents an important means of improving the life chances of children in conflict with the law through its capacity to provide safe care, practical support, advocacy for children's educational and psychological needs, and the experience of a supportive relationship with a trusted and trustworthy adult. Above all, if developed on a scale and to a quality that our project advocates, it provides an alternative to custody and thus can protect children's rights.

Last words...

The last word must go to the children themselves. As well as involving young people in each country's qualitative research, BAAF, in conjunction with A National Voice, organised an extended focus group event in Manchester in October 2013 to consult a group of care experienced young people about our project. Here are some comments from those young people:

I don't think people can really make that transition from foster home to a residential placement, because ... it's totally different from a foster placement. A foster placement is all warm and you feel welcomed and you feel like you're part of the family, but then when you move into a residential home you're just like a dumped kid.

I think if I'd stayed in a foster home, I'd be a better person for it. 'Cause in a residential home, you get mixed in with the wrong crowds in a residential home. But in a foster home, you keep safe, I think.

When you're in a foster placement, you got someone to look up to. Like I was in one, in a foster placement and I wanted to call her my mum, like she was always there for me, like I could just talk to her, I could go on about the other placement, but she'd still be there to listen.