

Children in Trouble

A report presented to Parliament in April 1968

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HOME OFFICE

Children in Trouble

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CHILDREN IN TROUBLE

I. INTRODUCTORY

1. In August 1965 the Government published a White Paper, "The Child, the Family and the Young Offender", in order to invite discussion of possible measures to support the family, forestall and reduce delinquency, and revise the law and practice relating to young offenders in England and Wales. The objectives and broad strategy of these proposals were widely welcomed. There was, however, less agreement about machinery, and especially about the proposal to establish family councils.

2. This Paper, which owes much to those who contributed to the discussion of the earlier proposals, sets out the reforms which the Government now proposes to introduce in the law for England and Wales relating to children and young persons.

3. The Paper does not propose changes affecting those who commit offences after reaching the age of 17, or in the system of courts for dealing with offenders both over and under 17. These are matters which will require further consideration in the light of the Report of the Committee on the Age of Majority, and of the current inquiries by the Royal Commission on Assizes and Quarter Sessions, and by the Law Commission and the Advisory Council on the Penal System in related fields.

4. The Government attaches great importance to the further development of the services concerned with the prevention and treatment of juvenile delinquency and with other similar problems affecting children and their families, and to the continued growth of co-operation between these services. The reforms outlined in this Paper are complementary to the co-operative development of these services, and nothing in the Paper prejudices the outcome of the Government's consideration of the Report of the Interdepartmental Committee on local authority personal social services. The Government's aim has been to provide a setting for developments which can be given effect initially by the services as at present organised, and in due course by the services as they may be organised in the future.

5. Part II of this Paper discusses some general considerations which underlie the Government's specific proposals for additions to, or changes in, the present law. Parts III-V describe these proposals in broad terms and Appendices A to D set these out in more detail, and will form the basis for early consultations with representatives of those who will be responsible for operating the new system.

II. GENERAL

6. Juvenile delinquency has no single cause, manifestation or cure. Its origins are many, and the range of behaviour which it covers is equally wide. At some points it merges almost imperceptibly with behaviour which does not contravene the law. A child's behaviour is influenced by genetic, emotional and intellectual factors, his maturity, and his family, school, neighbourhood and wider social setting. It is probably a minority of children who grow up without ever misbehaving in ways which may be contrary to the law.

Frequently such behaviour is no more than an incident in the pattern of a child's normal development. But sometimes it is a response to unsatisfactory family or social circumstances, a result of boredom in and out of school, an indication of maladjustment or immaturity, or a symptom of a deviant, damaged or abnormal personality. Early recognition and full assessment are particularly important in these more serious cases. Variety and flexibility in the measures that can be taken are equally important, if society is to deal effectively and appropriately with these manifold aspects of delinquency. These measures include supervision and support of the child in the family: the further development of the services working in the community: and a variety of facilities for short-term and long-term care, treatment and control, including some which are highly specialised.

7. The social consequences of juvenile delinquency range from minor nuisance to considerable damage and suffering for the community. An important object of the criminal law is to protect society against such consequences: but the community also recognises the importance of caring for those who are too young to protect themselves. Over recent years these two quite distinct grounds for action by society in relation to young people have been moving steadily closer together. It has become increasingly clear that social control of harmful behaviour by the young, and social measures to help and protect the young, are not distinct and separate processes. The aims of protecting society from juvenile delinquency, and of helping children in trouble to grow up into mature and law-abiding persons, are complementary and not contradictory.

8. The criminal law, in its application to juvenile offenders, has for many years recognised the welfare of the individual as an important criterion, and has made provision for special forms of treatment. There has been for sixty years a separate system of juvenile courts, with less formal procedures than those of the adult courts. These courts are staffed by specially selected magistrates who have given much devoted attention to the problems of young people. Voluntary organisations have played a large part in providing residential and other facilities for children. The probation service has played a pioneering role, with the young as with adults, in developing the concepts of diagnosis and treatment, both in its statutory function and in giving informal help and advice. The approved schools have done much to develop the concept of social education based on an understanding of individual needs and circumstances. The institution of juvenile liaison officer schemes in some areas is an example of the distinctive contribution which the police are making in the juvenile field, as part of their primary duty of crime prevention. The children's departments of local authorities have made great strides in the twenty years of their existence; together with the educational and health services they are now closely involved in preventive work and in providing facilities for treatment.

9. The legislative proposals described in this Paper preserve for each of the services concerned an important role in co-operation with the others.

10. This legislation will establish a new legal basis for steady development over a period of time. The changes will be introduced gradually over a period of years. Sufficient trained staff and other resources are not available to permit all the changes to be introduced at once, or at any one time. It is important

that the services concerned should not be asked to carry out new tasks before they have the resources to do so. The preparation and subsequent implementation of area development plans and schemes of intermediate treatment (described in Part V) will in any event take time. Provision will accordingly be made for different days to be appointed for the commencement of different parts of the new system; these will not necessarily be the same in all parts of the country. The fixing of appointed days will be decided in consultation with the local authorities and other services, in the light of the resources available. In particular, it is likely that the new legal procedures described in Part III will be brought into operation in several stages, possibly starting with children aged ten and eleven only. Meanwhile, the new system of residential care will enable existing resources to be used more productively.

III. CHANGES IN LEGAL PROCEDURES

Aims

11. The response to "The Child, the Family and the Young Offender" indicated wide support for the aim that, so far as possible, juvenile offenders should be dealt with outside the courts with the agreement of their parents. There were many comments, however, that this could most effectively be done on an informal basis by social workers, rather than through family councils; and that the basic choice over the procedure to be adopted in each individual case should therefore lie between, on the one hand, court proceedings and, on the other, the provision of help and guidance on an entirely voluntary basis. The weight of opinion was in favour of retaining the seventeenth birthday as the upper age limit for the juvenile system, particularly for care, protection or control proceedings. There were also several suggestions that there should be different arrangements for younger and older juvenile offenders. The proposals in this Part give effect to these views.

12. These proposals also take account of the fact that the transition from the young child's dependence on his parents to the independence and responsibility of the young adult is a gradual process. For most, it reaches a critical phase when the child is 13 or 14. The new legal procedures described in this Part will provide a graduated and flexible system which reflects this process. The procedure for children under 10 will remain as at present; there will be new provisions for those aged 10 and under 14, which will be added to those relating to children under 10; and new provisions also for those aged 14 and under 17 which will be added to those relating to the younger age groups. The procedure for offenders aged 10 and under 14 will narrow down the circumstances in which court proceedings are now possible. It represents a half-way stage between care, protection or control proceedings and prosecution. It is designed to encourage parents to fulfil the responsibilities which are properly theirs, and to ensure that the child's home background is considered before a decision is taken whether court proceedings should be instituted. Proceedings will remain possible where they are necessary for the protection of society or for the sake of the child. For offenders aged 14 and under 17, prosecution will be available in defined circumstances, as well as the new procedure for offenders under 14. The procedure for those aged 14 and under 17 will provide machinery and criteria for deciding whether the interests of society or of the

young person require a prosecution or whether these interests can best be served in other ways.

Juvenile courts and magistrates

13. These proposals mean the retention of the juvenile courts. Provision will be made for the Lord Chancellor (in the County Palatine of Lancaster the Chancellor of the Duchy) to appoint juvenile court panels in all parts of the country, as he already does in Inner London, when the necessary arrangements can be made. At present, juvenile court panels in other areas are appointed by the justices. This may involve invidious choices, and difficulties of selection in those areas where the bench is large and its individual members are not closely acquainted with many of their colleagues. After the enactment of legislation it will be necessary to revise the statutory rules relating to proceedings in juvenile courts, in the light of the new legal procedures. The opportunity will be taken to conduct a general review of the detailed procedure and practice of juvenile courts, in consultation with representatives of those involved in their day to day work, with the object of making any changes that will assist in the achievement of the aims set out in this Paper. The conclusions of this review will be reflected in the revised rules, and will be circulated to courts for guidance so far as they relate to matters of practice. Further steps will also be taken to promote the amalgamation of juvenile court panels where this is desirable.

The new legal procedure relating to offenders aged 10 and under 14

14. The commission of an offence by a child of this age will cease to be, by itself, a sufficient ground for bringing him before a court. Where proceedings are necessary, these will be brought under the care, protection or control procedure, which will be widened as follows. Under the present law, contained in section 2 of the Children and Young Persons Act 1963, a child is in need of care, protection or control if it is established that:

- (a) (i) he is not receiving such care, protection and guidance as a good parent may reasonably be expected to give, and
- (ii) any one of a number of conditions is satisfied (e.g., he is falling into bad associations or is exposed to moral danger, or the lack of care, protection or guidance is likely to cause him unnecessary suffering or seriously to affect his health or proper development); OR
- (b) he is beyond the control of his parent or guardian.

This definition will be amended by adding, to the conditions mentioned at (a)(ii), that the child has committed an offence. This means that proceedings on account of an offence will be possible only if the test at (a)(i) can also be satisfied or if the offence, either by itself or together with other factors, indicates that the child is beyond the control of his parents.

15. Where a ground for proceedings is the alleged commission of an offence, either the police or the local authority will be able to bring the proceedings. Except in cases of urgency, they will consult together before deciding whether to do so. If the child denies having committed the offence, it will be necessary to prove this in the same way as at present. It will normally be for the police to bring forward the necessary evidence. If the court is not satisfied that the child committed the offence, that will be the end of the proceedings. If the

offence is admitted or proved, evidence will then be brought forward by the local authority or the police, in the same way as in existing care, protection or control proceedings, that the child is not receiving such care, protection or guidance as a good parent may reasonably be expected to give, or is beyond control. The courses open to the court if it is also satisfied on the latter point will be the same as in care, protection or control proceedings brought on any other grounds, and are set out in the summary in paragraph 54.

Restrictions on the prosecution of offenders aged 14 and under 17

16. Prosecution of an offender of this age (except on a charge of homicide) will be possible only on the authority of a summons or warrant issued by a juvenile court magistrate. The magistrate will be empowered to grant an application for a summons or warrant only if one or more prescribed criteria are satisfied. Any person who proposes to make such an application will be required to inform the local authority in advance. The procedure for dealing with the application will be similar to existing procedure. Before the magistrate takes his decision, however, he will hear the views which the local children's department and the police have formed after consulting each other about the case. The proposed criteria for prosecution are set out, and the procedure is described in more detail, in Appendix A. These criteria are intended to cover all those situations in which prosecution may be necessary, and court proceedings would normally be taken in cases where one or more of the criteria were satisfied; but there will be no legal obligation on the police to make an application for process, or on the magistrate to grant it, in all such cases.

17. Under this scheme, the normal course of events, where the police identify an offender aged 14 and under 17, the offence is not denied, and something more than an oral warning on the spot seems to be required, will be as follows. The police will consult the children's department. Available information about the young person's background will be considered, and further enquiries made if necessary. In some cases it will be agreed that no question of court proceedings need arise. If informal action seems likely to be helpful, this will then be taken. In some cases the enquiries may show that care, protection or control proceedings would be more appropriate than a prosecution. Such proceedings will then be initiated. The remaining cases will be put to a magistrate to decide whether one of the statutory criteria for prosecution is satisfied and, if so, whether there should be a prosecution.

Co-operation between services

18. One major effect of the proposals described in this Part will be to encourage and strengthen consultation and co-operation between the juvenile court magistrates, the police, the local authority services concerned—including the schools—and the probation service. The regular discussion of individual cases will be valuable in enabling magistrates, police and social workers to appreciate different aspects of the problems of delinquency. It will be suggested to local authorities, chief officers of police, juvenile court panels and probation committees that they should arrange periodic meetings, at which each are represented, to review the operation of the new procedures in their area and to discuss how each can make the most effective contribution; and that others who are concerned might also be invited to attend such meetings. Teachers, who already make an invaluable contribution to the work of the juvenile

courts by providing information about pupils appearing in court, will take part in these meetings, and children's departments will maintain close liaison with schools when considering the action to be taken in individual cases. The changes will increase the scope for social casework by the local authority under section 1 of the Act of 1963. Informal warnings, and formal cautions, of offenders by the police will continue. It will also be possible to continue and extend the work of police juvenile liaison schemes in areas where it is agreed that police participation in preventive work is valuable. The courts will continue to provide the safeguard of judicial procedures in cases where allegations are denied or compulsion is exercised.

Minor and consequential changes

19. The more important minor and consequential changes are described in Appendix B. These affect police powers, remands, and the definition of "in need of care, protection or control".

IV. CHANGES AFFECTING TREATMENT

Aims

20. The aim of the changes described in this Part is to increase the effectiveness of the measures available to deal with juvenile delinquency. Effectiveness means helping children whose behaviour is unacceptable to grow up, to develop personal relationships and to accept their responsibilities towards their fellows, so that they become mature members of society; in some cases it also means firm control of anti-social behaviour. In order to achieve this aim, it is necessary to develop further our facilities for observation and assessment, and to increase the variety of facilities for continuing treatment, both residential and non-residential. Increased flexibility is needed so as to make it easier to vary the treatment when changed circumstances or fuller diagnosis suggest the need for a different approach. Organisational changes are also desirable so as to provide a setting for closer co-operation between the services concerned.

21. Three main changes in the powers of the juvenile court will be made for this purpose. First, the approved school order will be abolished; an order for the compulsory removal of a child from home will in all cases take the form of committal to the care of the local authority. Second, provision will be made for the development of new forms of treatment, intermediate between supervision in the home and committal to care. Third, all supervision of children under 14 will be by the local authority. The first change was proposed in "The Child, the Family and the Young Offender", and was widely supported. The third is a modification of a proposal in that White Paper. The second is new. These three changes are described in more detail in paragraphs 24-34; paragraphs 22-23 set out the powers of the higher courts which will remain.

Powers of the higher courts to deal with serious offences

22. The proposal in "The Child, the Family and the Young Offender" that the right to claim trial by jury should be abolished for persons up to 16, except those charged with homicide, met with almost unanimous agreement.

In view of the decision to retain an upper age of 17 for the juvenile court, this right will be abolished up to that age, but with an additional exception. Section 53(2) of the Children and Young Persons Act 1933 gives the superior courts power to order a young person found guilty of a grave offence to be detained in a place directed by the Secretary of State for a period specified by the court. This power will be retained. In practice it is exercised at present mainly in relation to young persons aged 16 who commit very serious offences, often involving violence. The effect will be that, where a young person is charged with an offence punishable in an adult by imprisonment for 14 years or more, and the juvenile court considers that the exercise of this power would be warranted if he were found guilty, the court will commit him for trial by a higher court. If he is found guilty, the higher court will have power to order his detention under section 53(2) of the 1933 Act, in addition to all the powers available to a juvenile court.

23. At present young persons of 15 and 16 may be committed to quarter sessions, and sent to borstal by quarter sessions, if no other method of dealing with them is appropriate. Power will be retained for the present to commit to borstal young people of this age for whom committal to, or a continuation in, care would be unsuitable. This power will be discontinued when new arrangements have been made for treating, where necessary under conditions of security, children and young persons whose behaviour presents serious problems.

Supervision

24. At present children and young persons who have committed an offence may be placed on probation and are supervised by probation officers. Those found in need of care, protection or control may be placed under the supervision of a probation officer, the local authority or any other person. Under the new arrangements, the supervision of a child under 14 found to be in need of care, protection or control will be by the local authority; in cases where the probation service was already working with the child's family, arrangements could be made for the probation officer concerned to supervise the child. For young persons aged 14 and under 17, supervision following both criminal proceedings and care, protection or control proceedings will be by the local authority or by a probation officer (but not, as at present, by any other person) as decided by the court. This means that the association of the probation service with young persons aged 14 and under 17 will be preserved. Supervision will be for a specified period of not more than three years.

Intermediate forms of treatment

25. Existing forms of treatment available to the juvenile courts distinguish sharply between those which involve complete removal from home and those which do not. The juvenile courts have very difficult decisions to make in judging whether circumstances require the drastic step of taking a child away from his parents and his home. The view has often been expressed that some form or forms of intermediate treatment should be available to the courts, allowing the child to remain in his own home but bringing him also into contact with a different environment. The junior attendance centres go some way towards meeting this need, but the time spent by an individual offender in an attendance centre is short (up to 24 hours at most, spread over a number of

Saturdays), and it has not been possible to provide centres outside the more populous areas. The junior detention centre involves removal from home which, although relatively brief, is sudden and complete. A new legal and administrative framework will therefore be established for the development of a variety of forms of intermediate treatment for children and young persons placed under supervision by the juvenile courts. One object is to make possible the use for this purpose of facilities not provided expressly for those who have been before the courts. These new methods of treatment will be linked to supervision, but a straightforward supervision order will remain possible. The new framework is outlined in paragraphs 26-29. Further details are given in Appendix C.

26. Intermediate treatment will fall into two categories. The first will involve temporary residence, attendance or participation, for a period or periods totalling not more than one month during each year of supervision. The court will fix the actual period, within this maximum. The supervisor (i.e., the local authority or probation officer) will decide on the particular place to be attended or activity to be undertaken, selecting the most appropriate of the facilities available under the local scheme mentioned in paragraph 28. These powers will be capable of use in a wide variety of ways. Possible instances are attendance for a number of evenings, or week-end afternoons, or entire week-ends, at a place for training, treatment or recreation; or taking part for a specified total of hours or days in some organised work project, or social service, or adventure training. There are many other possibilities. The aim will be to bring the young person into contact with a new environment, and to secure his participation in some constructive activity.

27. The second category will involve residence at a specified place for a fixed period of not more than three months, beginning within the first year of supervision. Again the actual length of the period of residence will be set by the court, within the statutory maximum. Its timing and nature will be decided by the supervisor, who will be responsible for selecting the most appropriate of the facilities available under the local scheme. This type of treatment will be available for use where the basic need is for help and supervision in the home, but a short period away from home also seems desirable. It will, for example, enable a child or young person to be placed for a short time in a home or hostel, or with relatives who are willing to receive him, while help is offered in remedying a difficult family situation. It will also be suitable for use in cases where the child himself needs some form of short-term treatment in a residential establishment or the kind of residential experience now being provided by a number of local education authorities.

28. It will be the responsibility of the local authorities, acting through the Joint Planning Committee described in Part V of this Paper, to prepare schemes setting out the range of intermediate treatments which they propose to make available, whether directly or by arrangement with voluntary bodies. Representatives of the juvenile court justices and of the police and probation services in each area will be associated with the planning committee in preparing these schemes. The facilities included in each scheme will have to come within general categories authorised by the Secretary of State, or to be approved expressly by him; the local authorities and other services will be consulted about the types of facilities to be authorised. Except so far as facilities are

provided by local authorities solely or primarily for the purposes of a scheme, the extent to which, and the conditions on which, any facility is made available for this purpose will be a matter for agreement between the Joint Planning Committee and the authority, body or person responsible for that facility. Each scheme will be notified to the Secretary of State, and by him to the courts in the area concerned.

29. Once a scheme has been so notified, the new powers relating to intermediate forms of treatment will become available to those courts. When adequate facilities for attendance or participation are provided under a scheme the existing powers of those courts to make junior attendance centre orders will lapse. Similarly, when adequate facilities for short term residence are provided under a scheme, existing powers to commit to a junior detention centre will lapse. These new forms of treatment will be built up gradually, and the initial scheme will be amended and added to as this is done. In the meantime, the Government will continue to maintain junior attendance centres and junior detention centres, and will be ready to discuss with local authorities ways in which these facilities might be incorporated within new schemes of supervision or residence. In particular, it is important that the valuable work of police officers in the junior attendance centres should not be lost.

Residential treatment

30. The abolition of the approved school order means that children and young persons who would now be committed to approved schools will come into the care of the local authority in whose area they live. The basic duty of local authorities towards children in their care will remain that of providing the care, protection, guidance or treatment which they consider appropriate in the interests of each child. This duty will include restoring the child to his home as soon as practicable and desirable, having regard to the need to protect society while children and young persons whose behaviour is difficult to control are undergoing treatment. The Secretary of State will have a reserve power to give directions to a local authority in any case where he is satisfied that a particular form of control is necessary for the protection of the public.

31. Local authorities will be responsible for developing a comprehensive system of residential care and treatment for the children received or committed into their care who are not boarded out with foster parents. About half the children now in local authority care are boarded out; foster parents perform a vital service in bringing up these children, and their devoted work will remain an essential part of the child care services. The new system of residential care will cater for the considerable number of children who for various reasons are not boarded out. A considerable variety of provision will be needed within this system, which will be described for legal purposes as the public system of community homes for children and young persons. The needs of the great majority of children will be met by homes which, as now, will care for them as nearly as possible in the same way as a good family, making use of the education, health, and other services which are generally available. It will remain the aim to secure that as many as possible of the children in residential care use these services. This will become easier as the movement towards closer co-ordination between these services gathers momentum. Even in the long term, however, there will remain a substantial minority of

children whose needs cannot be met in this way. There will thus be a continuing need for some establishments providing education and treatment on the premises. In some cases this will be with the limited aim of preparing for an early return to the use of the normal services. In others the first priority will be a therapeutic approach to social education. Some of these children, particularly those whose behaviour is most difficult, will also need control in secure conditions, or very specialised forms of treatment.

32. These proposals will not diminish the need for residential facilities. In particular, the retention of the seventeenth birthday as the upper age limit for the juvenile courts means that all the existing approved schools, including the senior schools, will probably be required for the accommodation of children and young persons in care. The schools will retain an important role within the new system of community homes, in continuing to provide for the needs of both offenders and non-offenders.

33. Centres for observation and assessment will form an essential part of the system. They will provide facilities on both a residential and a day-attendance basis for children remanded or subject to interim orders by the courts, and will advise on the treatment of children in care, so that decisions can be soundly based on the best possible diagnosis of the child's needs and circumstances. Observation centres will not be distinguished in law, however, from other community homes. The present legal distinctions between remand homes, reception centres, children's homes and approved schools impose unnecessary restrictions on making the best use of these resources.

34. A young person who is now committed to an approved school at the age of 16 is liable to be detained up to his nineteenth birthday. Committal to the care of a local authority ends at the eighteenth birthday. A period of little over one year may not be sufficient for the treatment of a young person who is nearly 17 when committed to care. Accordingly, where a young person has already reached the age of 16, committal to care will be until the nineteenth birthday. Provision will also be made for a young person to be retained in care up to this age, even if he came into care before reaching the age of 16, if he has been admitted to a special establishment for the treatment in secure conditions of very disturbed and difficult young people. The right to apply at any time for the revocation of an order committing to care will remain.

V. COMMUNITY HOMES FOR CHILDREN AND YOUNG PERSONS

35. The public system of community homes for children in the care of local authorities will be an integrated system; "community home" will be the common legal description for a wide range of establishments meeting the needs which are now served by local authority children's homes and hostels, remand homes, reception and remand centres, local authority and voluntary approved schools, and some voluntary children's homes which regularly accommodate children in care. The Government attaches great importance to the further development of partnership between public and voluntary bodies in meeting these needs, and the public system will therefore include both local authority and voluntary homes. The machinery for developing the public system of community homes, and the new forms of partnership which will enable local

authorities and voluntary bodies to work together in catering for children in care, are described in this Part and in Appendix D.

Duties of local authorities

36. The new system will have to strike a reasonable balance between two sets of considerations. On the one hand, there is a need for close links between community homes and the communities they serve. Many children in residential care are still members of families, with deep roots in a local environment to which they will one day return. Success in treatment therefore depends, in part, on helping the family as well as the child: it also depends on the extent to which the staff of the home understand the child's family and social environment. These requirements are difficult to meet unless homes are provided on a genuinely local basis, with close links between the staff of the home and the field staff of the local authority. On the other hand, many of the facilities required are too specialised to be provided on a wholly local basis, and some must be planned nationally. Every authority will wish to make the fullest possible provision to meet its own needs, but should also be able to participate in the planning, provision and management of those facilities which must be shared with neighbouring authorities.

37. The powers and duties of children authorities will accordingly be extended. To enable each authority to fulfil its duties towards the children in its care, set out in paragraph 30, its duties will also include:

- (a) the preparation, in co-operation with the other authorities in a joint planning area designated by the Secretary of State, of
 - (i) a comprehensive plan for the development of a full range of residential facilities for children and young persons in care, and of facilities for observation and assessment; and
 - (ii) a scheme specifying the facilities to be made available for the intermediate forms of treatment described in Part IV;
- (b) the provision, or assistance with the provision, of the facilities specified in the development plan and scheme of intermediate treatment.

Joint Planning Committees

38. Joint Planning Committees will be established, covering areas approved by the Secretary of State after consultation with the local authorities. The aim will be to respect existing arrangements for co-operation between authorities and, wherever possible, to secure a sensible relationship between the areas of the new Joint Planning Committees and those of other relevant services, particularly police, special education, hospitals and probation. The Committees will be appointed by the participating children authorities. The authorities' education and health Committees will also be represented, and the probation and other statutory services will be consulted as necessary. Officials of central Government Departments concerned with child care, education and health will assist the Committees in their work, particularly by identifying needs for which provision must be made on a national basis.

39. The initial task of the Joint Planning Committees will be to prepare and submit for the Secretary of State's approval comprehensive development plans for a system of community homes in their areas. The plans will be

based on an analysis of the needs of children and young persons in care, distinguishing between those which require the provision of a variety of establishments provided for that purpose, and those which can be met by placing children in foster homes, normal boarding schools, boarding special schools or independent establishments. The plans will also specify the proposed future functions of existing homes and approved schools, both local authority and voluntary, which will provide facilities within the public system. There will be full consultation with those responsible for voluntary establishments, with a view to reaching an agreed definition of the future role of the home or school. Finally, the plan will set out proposals for filling any gaps in the available facilities. When the plan has been approved, it will be for each local authority, body of managers or voluntary organisation to carry out their part of the plan.

40. The second task of the Committees will be to prepare schemes of intermediate treatment (see paragraph 28). It will also be open to the members of any Joint Planning Committee, if they so wish, to make use of the Committee for the discussion or planning of other matters of mutual concern in the child care field, such as training or research. The Joint Planning Committees will have a continuing responsibility to review progress, to arrange for the evaluation of experimental developments, and to keep development plans and schemes of intermediate treatment up to date.

41. It will be open to Joint Planning Committees to propose a role for existing homes or approved schools outside the new system of community homes. For example, most existing approved schools will probably continue to specialise in social education, but a few might become boarding special schools or even ordinary boarding schools operating under the Education Acts. It will also be open to Committees to specify needs which seem to require a national approach. While the Government hopes that each Joint Planning Committee will be able to meet, within its own system, the great majority of needs, including secure accommodation for very disturbed children and young persons who do not require or are not susceptible to hospital treatment, it may be thought that some of the long-term provision for such children should be the subject of national planning. This will be a matter for discussion when Joint Planning Committees are established. The Secretary of State will be given reserve powers to provide, maintain or assist community homes needed for highly specialised purposes.

Voluntary establishments

42. The new categories of community home available within the public system are described in Appendix D. The details will be the subject of early discussions with representatives of the local authorities and of voluntary homes and approved schools. The method of deciding the role and status of voluntary establishments within the public system will be as follows.

43. The Joint Planning Committees will discuss with the managers of voluntary approved schools the future role and status of each establishment within the new system. It will also be open to a Committee to agree with the managers of a voluntary home registered under section 29 of the Children Act 1948 that the home should provide regular facilities within the public system. When agreement has been reached on the future role of each establishment, and

the area development plan has been approved by the Secretary of State, formal steps will be taken to establish the new status of the voluntary home or school. Arrangements will be made to safeguard the interests of the staff, and of the managers of voluntary establishments, during the period of transition to the new system.

44. There may be some cases where the new functions of the home or school are appropriate to the public educational system. In such cases the choices of status will be those available under the Education Acts, and the agreement both of the local education authority and of the Secretary of State for Education and Science will be needed before the change is made. The managers or governors will, however, be asked to reserve, over a period of at least seven years, a substantial but diminishing number of the places in the school for the use of children and young persons in the care of local authorities who have been ascertained as in need of special education. These transitional arrangements will be needed to protect children authorities from the risk of a loss of existing facilities before they have had time to make other arrangements.

45. Voluntary organisations which wish to continue, or to establish, children's homes operating outside the public system will remain free to do so, subject to the existing statutory provisions as to registration, inspection and otherwise. These homes will be known as registered voluntary homes. Voluntary homes participating in the public system will no longer need to be registered. Registered voluntary homes will remain free to accommodate children in local authority care on terms agreed between the local authority concerned and the managers of the home. Any standing arrangements for doing so may be specified in the plans of Joint Planning Committees.

46. The intention is to enable the voluntary approved schools to come within the public system on a basis acceptable to their managers and to the responsible local authorities; the managers of voluntary homes on whom authorities rely for the accommodation of children in their care will have a similar opportunity. If in any instance a voluntary approved school cannot find an agreed role and status within the new system, it will be open to the managers to surrender the certificate of approval, and the existing financial arrangements for the repayment of grants and loans will apply.

VI. RESEARCH, DEVELOPMENT AND ADVISORY SERVICES

47. The Advisory Council on Child Care is being reconstituted so as to become the central forum for the co-operative planning and discussion of research, development and training in child care, and for ensuring that the results of research and development are made widely known. The membership of the new Council will include members nominated by the local authority and other associations and by voluntary bodies, and university and other members selected by the Secretary of State, under an independent Chairman appointed by him. The Council will have a research and development Committee, which will discuss research and development in child care and help in co-ordinating effort in this field and in disseminating the results. The Children's Inspectorate of the Home Office will continue to exercise its existing statutory functions, but greater emphasis will be laid on advisory rather than regulative functions; it will be the responsibility of the local authorities or managers to ensure obser-

vance of the statutory rules governing the conduct of community homes. Inspectors will take part in the work of Joint Planning Committees and will form a link between the Home Office, local authorities and voluntary organisations as part of the co-operative effort to foster the spread of new knowledge and techniques in the care of children. The Development Group in the Home Office Children's Department will also be closely concerned in stimulating development. This Group was established recently to co-operate with those concerned with practical developments in the field and in associated research. The Home Office Research Unit will assist in the evaluation of new developments and of the new procedures and treatments described earlier in this Paper, as part of its functions in the fields of child care and juvenile delinquency.

VII. FINANCE

48. The functions of local authorities under these proposals will form part of their child care functions. They will be financed through rate support grant in the same way as local authority child care functions are financed at present, the expenditure being taken into account in determining the amount of grant. Local authorities will thus assume a share of financial responsibility for those forms of treatment which will eventually replace junior attendance centres, junior detention centres and borstal for those under 17. Detailed discussions will be held with the local authority associations on the precise financial implications.

VIII. SUMMARY OF MAIN PROPOSALS

49. There are many influences on the behaviour of children, and that of the family is particularly important. Much misbehaviour by children is part of the process of growing up, but some has more deep-seated causes. Action by society to deal with children in trouble should take account of each child's family and wider social background, and should be designed where possible to support the child in the family, encouraging and helping parents to fulfil their responsibilities and preserving the child's links with his local community. The measures available should be varied and flexible, so that the action taken in each case can reflect the circumstances which gave rise to it and can be altered as the circumstances alter. The use of formal procedures should be reserved for situations where this is necessary in the interests of the child or of society. Firm and consistent discipline is, however, a normal and necessary part of a child's upbringing. Children may require control as well as help, if they are to overcome their problems and to become mature citizens; and society may have to provide this control, for its own protection and for the sake of the child, where the parents are unable to do so. The proposals in this Paper, which are summarised in the following paragraphs, are intended to promote these aims, providing a comprehensive yet flexible legal framework for the development of work with children in trouble over the coming years.

Juvenile courts

50. Juvenile courts will be retained and their existing jurisdiction and age limits will be preserved. The Lord Chancellor will make appointments to juvenile court panels elsewhere in the country, as he already does in Inner

London. The practice, procedure and areas of juvenile courts will be reviewed.

Changes in legal procedures

51. (a) *Children aged 10 and under 14*

The prosecution of children of this age will cease, and action to deal with offenders and to help their parents will be taken, where possible, on a voluntary basis. If a child commits an offence *and* his parents are not providing adequate care, protection and guidance, *or* the offence indicates that he is beyond parental control, it will be possible to take him before a juvenile court as in need of care, protection or control.

(b) *Young persons aged 14 and under 17*

To enable young persons to be dealt with so far as possible on a voluntary basis without recourse to the courts, it will be provided that prosecution will be possible only if one or more prescribed criteria are satisfied, and only on the authority of a magistrate. The care, protection or control procedure, extended as mentioned at (a), will apply up to the seventeenth birthday.

Changes in the powers of the courts

52. (a) Probation orders will cease to be legally distinct from supervision orders. Supervision of children under 14 will be by the local authority, and of young persons aged 14 and under 17 by the local authority or a probation officer.

(b) Provision will be made for new forms of intermediate treatment, for use in conjunction with supervision, to be developed by local authorities. These will in due course replace junior attendance centres and junior detention centres.

(c) Children and young persons requiring continuing treatment away from home will be placed in the care of local authorities. The separate approved school order will cease to exist, and borstal for those under 17 will in due course be replaced.

Children in the care of local authorities

53. (a) Local authorities will be responsible for developing a comprehensive system of community homes for children, which will be planned by joint committees of authorities, and in consultation with voluntary bodies wishing to participate and with other statutory services concerned. Development plans drawn up by these committees will be subject to the approval of the Secretary of State, who will have a reserve power to arrange for the provision of homes to meet any national needs which local authorities are unable to cater for.

(b) The statutory framework for the work of the Joint Planning Committees will provide for a partnership between public and voluntary effort. In particular it will provide a range of possibilities within which the existing voluntary approved schools may be expected to find an appropriate place in the system of public provision. It will also be made possible for voluntary children's homes to become more closely associated with this system if they and the relevant planning committee wish.

Summary of legal procedures and powers

54. When the changes in legal procedures described in Part III, and the

changes in the powers of the courts described in Part IV, have all come into operation, the position will be as summarised in this chart.

<i>Age of child</i>	<i>Nature of legal or informal action available</i>	<i>Powers of the juvenile courts</i>
Under 10	Social casework by local authority. Informal action by other services.	In care, protection or control proceedings (on any ground, all ages up to 17):
10 and under 14	Care, protection or control proceedings (with amendment described in Appendix B). Same as children under 10; <i>and</i> Extended care, protection or control proceedings described in paragraphs 12-13. Caution or other informal police action.	Committal to care of local authority. Supervision, with or without intermediate treatment. Hospital or guardianship order under Mental Health Act. Binding over parents.
14 and under 17	Same as children under 14; <i>and</i> Prosecution if authorised under the scheme described in paragraphs 14-15 and Appendix A.	In criminal proceedings: same orders as in care, protection or control proceedings; <i>and</i> Absolute or conditional discharge. Fine up to £50. Payment of damages or compensation. Detention centre or attendance centre (until intermediate treatments are available).

Restrictions on the Prosecution of Young Persons aged 14 and under 17

1. The following provisions will be enacted by statute:—

- (a) Where a young person is alleged to have committed an offence, criminal proceedings may be taken only on account of the seriousness of the offence or of some other prescribed circumstance.
- (b) The sole procedure for instituting a prosecution against a young person (except in the case of homicide) will be by applying for a summons or a warrant to a member of the juvenile court panel, sitting in private, who will be under a duty to consider whether any of the prescribed circumstances is satisfied and, if not, to refuse the application.
- (c) It will be open to the magistrate to decline to issue process if, having regard to all the circumstances, he considers that, although one of the prescribed circumstances is satisfied, the case can appropriately be dealt with without recourse to prosecution.

2. Statutory Regulations will:—

- (1) Prescribe the circumstances in which it will be possible for criminal proceedings to be taken for an alleged offence, possibly on the following lines:—
 - (a) the offence is homicide or some other serious offence;
 - (b) the offence is of a type causing much public concern;
 - (c) the young person appears not to be in need of sustained support or treatment, but the nature of the offence and his home circumstances suggest that a court appearance and a simple deterrent (e.g. a fine) would be appropriate;
 - (d) the known circumstances of the young person or his family indicate that action without the backing of a court order would not be likely to succeed;
 - (e) the offence is a traffic offence carrying a likelihood of disqualification from driving or endorsement of the licence that will remain effective after he has reached the minimum age for holding a driving licence;
 - (f) help or treatment on a voluntary basis would not be feasible because the young person does not reside in England and Wales or has no fixed abode;
 - (g) the offence was committed in company with some other person, whether over or under 17, who is to be prosecuted.
- (2) Require an intending prosecutor of a young person to inform the local authority before applying for a summons or warrant.
- (3) Confer on the local authority a right to be heard by a magistrate considering an application for a summons or warrant.
- (4) Require the magistrate to take into account whether the local authority, or some other social agency, is already engaged or proposes to engage in preventive work with the young person or his family and to consider the advice of the agency concerned.
- (5) Empower the magistrate (a) to require the attendance of local authority or police representatives, if either or both are not present; (b) to adjourn the application, either for this purpose or so that further inquiries can be made by the local authority or a probation officer, or by the police.
- (6) Provide that a magistrate issuing a summons or warrant in respect of a young person shall not be a member of the court hearing the case.

3. The detailed administration of this scheme will depend to some extent on local arrangements, but will be broadly as described below. (This scheme relates only to cases where the ground on which action is being considered is the commission of an offence. It will not affect existing arrangements for taking care, protection or control

proceedings on other grounds, or for help to be given to children and families by children's departments and other services.)

- (1) (a) The possibility of action on a voluntary basis will be considered only where the initial investigations by the police indicate that the offence is not denied. Where it becomes known at any stage that the child or his parents deny the offence he is alleged to have committed, it will be for the police to decide in the ordinary way whether to apply for a summons or warrant if one of the statutory criteria is satisfied, or to take no action.
 - (b) In cases where the police do not now prosecute, but either take no action or issue an informal warning, there will be no change.
 - (c) Where it seems clear that, according to the prescribed criteria, there is bound to be a prosecution (e.g., in a case of grave crime) the police will apply for a summons or warrant, first informing the children's department of the local authority; in cases of homicide it will remain possible for the police to charge the alleged offender in the same way as at present, informing the children's department.
- (2) In cases not dealt with as in (1) the first step will be consultation between the police and the children's department. This will include, so far as they think it necessary, assembling and considering the available information about the child and his background (e.g., from his teachers), consulting any others known to be involved already with the child or his family (e.g., the probation service), and a home visit if this seems required before the children's department can decide whether voluntary action with the family would be worth attempting.
- (3) (a) If, after this consultation, it is agreed that voluntary action without the support of a court order should be tried or continued, or that a formal caution would be appropriate, or that no action is necessary, the case will be dealt with accordingly and there will be no application for process.
 - (b) If the police and the children's department agree that it is a case for prosecution or for care, protection or control proceedings, process will be applied for accordingly.
 - (c) Cases not falling clearly under paragraphs 3(1)(b) to 3(3)(b) will be referred to the magistrate for a decision, by the police applying for a summons.
- (4) Where an application for process is made, the magistrate will consider it in accordance with the provisions set out in paragraphs 1 and 2(4) and (5) of this Appendix. He will take into account all the information given by the police, the children's department and the probation officer where he is concerned with the case and will be free to ask them questions and to discuss the circumstances and possible courses of action with them before taking his decision.
- (5) If voluntary action is tried but the young person or his parents do not in the event prove to be co-operative, no further action will be taken unless fresh grounds for court proceedings arise. If the young person offends again, paragraph 2(1)(d) will then apply, and it will be possible to apply for a summons or warrant if prosecution seems the appropriate form of court proceedings.

APPENDIX B

Minor and Consequential Changes

Ancillary procedure

1. Power will still be required for the police to take immediate preventive action where a child under 14 is found committing an offence. In relation to an offender aged 10 and under 14, they will be given powers to take him to a place of safety in all circumstances in which they would have power to arrest without warrant an offender of 14 or over.

2. The existing power of the police to take to a place of safety, without reference to a magistrate, a child or young person thought to be in need of care, protection or control will be reformulated. It will be made clear that this power may properly be exercised in situations where the protection of the child or young person clearly requires his immediate removal from the place where he is found, although the police are not in a position to establish straightway whether it will be necessary to bring him before a court.

3. Where a young person aged 14 and under 17 is arrested for an offence but not released on bail, the case will be referred to a magistrate within 72 hours. The magistrate will have power to remand on bail, or to the care of the local authority, pending a decision whether court proceedings should be taken.

4. Adjustments will be made in the powers of the courts to remand children and young persons in custody, and to make interim orders. The existing law specifies in detail the precise circumstances in which children and young persons of particular ages may be committed to particular types of institution. These provisions will be replaced by a provision that all remands (otherwise than on bail) of young persons aged 14 and under 17 shall be to the care of the local authority, and all interim orders for children under 17 shall commit to the temporary care of the local authority. The developments outlined in Part V will, in time, make it possible to accommodate all these children and young persons (apart from those accommodated in hospitals) in establishments provided or managed by local authorities. In the meantime, the Government will continue to provide remand centres or other establishments for those young persons aged 14 and under 17 whose behaviour is such that they cannot be contained satisfactorily in local authority establishments.

Amended definition of "in need of care, protection or control"

5. As explained in paragraph 14 of this Paper, one of the tests in section 2 of the Children and Young Persons Act 1963 is that the child is not receiving such care, protection and guidance as a good parent may reasonably be expected to give. This test will be clarified so as to make it clear that the court may properly consider not only the care, protection and guidance given direct by the child's parents, but also whether the parents are securing for him any care, protection or guidance which they are not themselves able to give but which a good parent might reasonably be expected to secure for his child. This amendment will apply to all children up to the age of 17.

APPENDIX C

Intermediate Forms of Treatment

1. The form of the proposals described in paragraphs 25-29 and this Appendix reflects several important general considerations which were discussed in the Report "Non-Residential Treatment of Offenders Under Twenty-One" made in 1962 by the Advisory Council on the Treatment of Offenders. One such consideration is that, where possible, a child or young person under supervision should be treated as a member of his local community and in association with others of his own age, and treatment of this nature should not be restricted to groups of delinquents alone. It is important therefore to make the best co-operative use of all available local resources and services, both statutory and voluntary, in providing suitable facilities for this purpose. These will vary from one area to another, and the basic responsibility for their provision should be local rather than central. A second consideration is that any form of intermediate treatment is likely to be less beneficial if forced upon an unwilling recipient. Voluntary bodies may prefer not to offer facilities to those who make use of them only under compulsion and who might disturb other users. But, while willing acceptance of a child or young person of an intermediate form of treatment will always be desirable, this may not always manifest itself immediately. Much of the potential benefit of the new scheme would be lost if its use were confined to cases where it was freely accepted right from the start. Thirdly, the need for continuing diagnosis and flexibility of response, described earlier in this paper, applies in all situations where a child or young person is receiving continuing treatment. This means that there must be some scope for the supervisor to decide, within limits fixed by the law or by the court, the precise nature and timing of intermediate treatment.

2. A court which, in addition to placing a child or young person under supervision, makes use of the new powers described in paragraphs 25-29 will normally have received reports on him and his background which indicate that one of the available forms of intermediate treatment is likely to be beneficial. He may already have expressed his willingness to co-operate, and there may be little difficulty in selecting the most appropriate form of treatment. In other cases he may be unwilling or uncertain in greater or less degree, or the selection of the appropriate treatment may require a more extensive investigation of the circumstances than had been possible before the court's decision. This closer familiarity with the child or young person and his background may even indicate on occasion that none of the available forms of intermediate treatment would be appropriate. In such a case the supervisor would be free to continue the supervision alone without additional treatment. Unless this is so, the supervisor will, as part of his general duty to help the child or young person and his family, try to secure their acceptance of the treatment which he selects. There is likely to remain a minority of cases where the supervisor is unable to do so. The chances of a successful outcome following the use of compulsion may then be small. Equally there will be cases where the child or young person and his parents co-operate for a time and then cease to do so. In such situations it will be for the supervisor to decide, according to his assessment of the situation at the time and of the likely outcome of the courses of action open to him, whether to make use of the power of compulsion available to him under the order of the court, with the sanction of bringing the child or young person again before the court if he refuses to comply.

The Public System of Community Homes for Children and Young Persons

1. There will be three categories of community home:—

- Local authority homes.
- Assisted voluntary homes.
- Controlled voluntary homes.

The sole purpose of these legal descriptions will be to distinguish the various categories of homes, which will be subject to different statutory provisions. The actual title of each individual home will be for the local authority or managers to decide.

Local authority homes

2. Homes provided and maintained by local authorities, including existing local authority approved schools, will be known as local authority homes. It will be for local authorities to make arrangements for their management.

3. It will also be made possible for a voluntary approved school, or a voluntary children's home registered under section 29 of the Children Act 1948, to become a local authority home. It will then be transferred, as a going concern, to the local authority specified for the purpose in an area development plan.

Voluntary homes

4. These will be community homes provided, maintained and managed by a partnership between public and voluntary effort. Their functions and status will be those specified in an approved area development plan. In the case of what are now voluntary approved schools, it will be for the joint planning committee for the area in which the school is situated to initiate discussions with the school authorities about its future functions and status. In view of the uneven geographical distribution of approved schools, however, a school might eventually be included in the development plan of a neighbouring area. In the case of voluntary children's homes it will be open to the managers to make proposals to a joint planning committee, or for the committee to approach the managers, if they wish the home to be considered for inclusion within the public system. Neither will be under any obligation to make or accept such proposals. The role which each existing voluntary establishment plays under a development plan will depend upon the joint planning committee's agreement to this role, and the Secretary of State's approval of the plan.

5. Every assisted or controlled voluntary home will be conducted in accordance with its trust, supplemented by rules of management to be made by the Secretary of State. He will also make an instrument of management constituting the homes' managing body, for the purposes of the public system of community homes, after consultation with the trustees or other representatives of the original foundation or voluntary body concerned and with the local authority or authorities who are to be its major users. The premises or other assets will be vested in trustees or other representatives of the original foundation, to whom control and use will revert if at any time it ceases to form part of the public system. If the property is then sold, or is used for any purpose other than one approved by the Secretary of State, the trustees will be required to pay the Exchequer a sum equivalent to any value then attaching to the property as a result of the expenditure of public funds.

6. Responsibility for arranging for the assessment of the needs of children and young persons, and for deciding allocations to particular homes, transfers to other homes or forms of treatment and discharges from residential care will rest with the local authority having the child in its care. Where the home offers a variety of treatments it will also be the responsibility of the authority having the child in its care to decide, after considering the advice of the managers, the general character of the child's care, control or treatment. Other decisions about the treatment of a child while residing in a voluntary home will be taken by the managers or directing staff, within the framework of the general statutory rules and the rules of management for each home.

Assisted status

7. The provision, enlargement and maintenance of an assisted voluntary home will be the responsibility of the managers, who will charge fees for the use of facilities they provide for children in the care of local authorities. It will be eligible for Exchequer grant at the rate of 100 per cent. of the approved cost of any building work, or other provision on capital account, needed to fit it for the purpose defined for it in the development plan. The rate at which building work or other capital expenditure can be approved will depend on the country's economic circumstances.

8. The instrument of management will provide for two-thirds of the managers to be appointed by the trustees or other representatives of the original foundation. The particular responsibility of these foundation managers will be to ensure that the home is conducted in accordance with its trust deed or similar document. The remaining one-third of the managers (the representative managers) will normally be appointed by the local authority or authorities which are its major users. In the case of homes serving national needs, representative managers may be appointed by the Secretary of State.

9. Rules of management will provide that the managers must at all times make available 50 per cent. of the places for children or young persons in the care of local authorities, and must accept any child who is recommended for that home by the observation centre or other agency locally responsible for observation and assessment. They may also be required to make available a further 25 per cent. of places, on the same conditions, after reasonable notice has been given by the local authority or authorities represented on the managing body. It will be open to them to accept as many local authority placements as they wish. Beyond the 50 per cent. of reserved places, or the 75 per cent. if the option to increase is exercised, the managers' consent to the acceptance of any particular child will be required.

10. When considering proposals in development plans, the Secretary of State will normally be prepared to accord assisted status only to homes which have the support of an organisation larger than their own managing body (e.g., a religious community or charitable foundation).

Controlled status

11. The arrangements will be generally similar to those described in paragraphs 7 to 9, but with the following three specific differences. First, financial responsibility on both capital and current account will be wholly assumed by the local authorities defined for this purpose in the relevant area development plan. Secondly, the instrument of management will provide for two-thirds of the managers to be representative managers, and one-third foundation managers. Thirdly, the Rules of Management will require 90 per cent. of the places to be available for children in the care of local authorities, should the authorities wish to take them up.

General

12. All community homes within the public system will be subject to inspection by members of the Home Office Children's Inspectorate. Minimum standards of accommodation, and general principles for their conduct, will be prescribed by statutory rules. The Secretary of State will have power to determine any dispute between a local authority and the managers of an assisted or controlled voluntary home, including disputes about the fees charged to local authorities.