

Children with complex needs who are deprived of liberty

Interviews with children to understand their
experiences of being deprived of their liberty

November 2024

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The content of this report remains the sole responsibility of the Children's Commissioner's office.

Foreword from Dame Rachel de Souza



Thousands of children in the United Kingdom are currently deprived of their liberty. They are confined in young offender institutions, mental health wards, or secure children's homes, but a growing proportion are being deprived of their liberty outside a secure setting, through the use of High Court deprivation of liberty orders. These orders, which are currently being made at a rate of well over 1,000 per year, are imposed when children are deemed to be at exceptionally high risk of harm to themselves, from others, or occasionally towards others.

Restricting liberty is one of the most significant interventions the state can make into a child's life. A deprivation of liberty order may include authorisation for children to be supervised at all times, prevented from leaving their accommodation at will, denied phone and internet access, and restrained by professionals when this is deemed necessary. Although these children are living in the community, they are often, by virtue of their restrictions, extremely isolated, and largely hidden from view.

The vast majority of children subject to deprivation of liberty orders are in the care system. Some are living in specialist therapeutic children's homes or settings that have been created specifically for them. However, many children live with these restrictions in places that are highly unsuitable, including illegal children's homes, Airbnbs, or on hospital wards while awaiting discharge. Far from providing the environment they need to help them with the behaviours that have caused concern, this leads to

children feeling unsafe and uncared for, further adding to their trauma. My office has supported many children subject to deprivation of liberty orders, most of whom describe experiences we would not wish on any child. I have become increasingly dismayed by the number of children in this situation, particularly given the lack of suitable therapeutic foster carers or residential settings available for them. This concern is very often shared by the local authority and health professionals supporting the child, and by the judges imposing the orders, which are seen as the last resort to keep them safe.

In recognition of the scale of the problem, the Department for Education and NHS England have set up a task and finish group to look at how these children can be better supported. In order to ensure that children's voices are at the heart of any reforms, my office has spoken to children with experience of deprivation of liberty orders, to understand from them how it feels to live under these conditions, what more they believe could have been done to help them, and what they think needs to change.

Children felt let down by the system, often questioning where the support had been for them and their families before the situation escalated beyond their control. Many children also described adverse experiences in care; moving between multiple children's homes, where they had no sense of commitment or genuine concern from their carers, with their behaviour labelled as challenging and risky, instead of being recognised as a response to trauma. While children understood that the deprivation of liberty order was intended to keep them safe, they felt that the restrictions had taken an undue toll on their mental wellbeing, education and relationships. Some children, particularly those with an autism or mental health diagnosis, had experienced multiple episodes of restraint, which is distressing for any child, and even more so for those who are living away from home, often alone with their carers.

Not all experiences described by children living with a deprivation of liberty order were bad, but the impact and effectiveness of the order very much depended on the quality of care and professional support they had received, their access to education and appropriate therapy, and the priority given to maintaining their positive relationships and including them as far as possible in the decisions made about their lives.

The fact that we have so many children living under these circumstances is one of the strongest arguments that can be made for the urgency of reforming children's social care. When a child is effectively imprisoned for their own safety, it means that many opportunities for intervention have been missed. We need more support for families and children early on, and a care system that is fit for purpose so that children do not reach crisis point.

For the very small number of children where controls on their freedom are necessary in order to keep them or others safe, we must make sure they have not only excellent, individualised care, but also full protection under the law, which is why I am calling for their rights, and the responsibilities of others to promote their welfare, to be clearly set out in a new statutory framework under the Children Act 1989. There is also a clear and urgent need for more specialist children's homes, with integrated support from social care, health, and other agencies where necessary, and a trauma-informed, child-centred approach, so that children can be kept safe and supported for as long as they need.

I am so grateful to the children who contributed to this research. The lack of data about the experiences of children living with deprivation of liberty orders, particularly from children themselves, has been a barrier to addressing their needs and considering how best to provide care. As this report shows, they can offer a critical insight into the problems with the systems currently in place and ideas about how these can be improved for a better way forward. What is more, as professionals and as a society, we have a moral obligation to ensure that children at risk of harm are not simply contained and kept out of the community, but are seen, heard, and given the care and support they need to thrive.

Executive summary

Children experience a deprivation of liberty when restrictions are imposed on their freedom which go beyond what would normally be expected for a child of their age, and this happens without valid consent.¹ Children in England can be deprived of their liberty in secure settings, specifically custodial settings (for youth justice reasons), secure children's homes (for welfare reasons) and mental health units (for assessment and treatment). A deprivation of liberty can also occur in other settings, such as the child's home, a children's home, or residential school, but the Children Act 1989 does not have provision for a child to be deprived of liberty other than in a secure setting. Therefore, when this is deemed necessary for safety reasons but a place in a secure setting is not available or appropriate for a child, a deprivation of liberty order must be sought from the High Court or Court of Protection, giving authorisation for restrictions such as constant supervision, restraint, and limits on outside contact to be imposed in a non-secure setting.

Children who become subject to deprivation of liberty orders tend to have complex needs and histories, and the behaviours that cause concern may be a manifestation of trauma and mental health conditions that have not been addressed. Most are in the care system at the point of application for the order and many, though not all, will have suffered neglect, abuse or exploitation. There are also children who are deprived of liberty primarily due to behaviours linked to autism or learning difficulties, with restrictions sought to manage and support them safely, although many of these children have also experienced trauma and adversity².

The Children's Commissioner has long held concerns about the circumstances of children deprived of their liberty.³ The office's Help at Hand advocacy service has been contacted by many children living under deprivation of liberty orders, and professionals supporting them, who have described extremely difficult situations, often linked to the lack of registered therapeutic children's homes which can offer appropriate care. The dire situation of these children is regularly cited in the judgements for deprivation of liberty orders and has been raised by both the current and former Presidents of the Family Division. Despite this, the existing evidence on this group of children is limited, although a number of recent reports, in particular from the Nuffield Family Justice Observatory, have provided more information about their situation and outcomes, and how they could be better supported.⁴

To address the concerns about children deprived of liberty in this way, the Department for Education has established a task and finish group to consider how practice can be improved through alternative models of integrated care. The Children's Commissioner has a role in the group, and this report was commissioned as part of the ongoing work, with the purpose of investigating and reflecting the experiences of children who have been subject to deprivation of liberty orders and ensuring their voices are kept central to any plans and reforms going forward.

The Commissioner's research team sought the views of 15 children with experience of deprivation of liberty orders from the High Court, and in some cases of their parents and supporting professionals. The interviews and information shared give an insight into their journeys up to and beyond the point of being deprived of their liberty. The children also offered their ideas about how the systems operating around them could have worked better, potentially with different outcomes for them, and how they think things should change to make this happen. Every child's story is unique, but a number of key themes emerged:

- All children had experienced significant instability and had struggled to get the support they needed before a deprivation of liberty order was put in place.
- Most children felt there were limited opportunities to have their voices heard and to be involved in decisions about their lives while living under the order.
- Children were unhappy with the conditions associated with their deprivation of liberty order and found it particularly difficult when they did not have a clear plan for stepping down the restrictions.
- Children were positive about their current care team and setting but most had previous bad experiences of unregistered (i.e. illegal) or poor-quality placements, and staff who did not meet their needs.
- Children whose emotional dysregulation or challenging behaviour meant they were potentially at risk of harming themselves or others were likely to have experienced multiple episodes of restraint, though this was not the case for children whose primary risk was exploitation.

- The deprivation of liberty order had a detrimental impact on children’s education; most were out of school and receiving a limited curriculum.
- Most children were in solo placements and were socially isolated.
- There was wide variation in the number and type of activities offered to children and many had a large amount of unstructured free time during the day.
- While some children were receiving therapeutic input, many felt their mental health needs had never been fully addressed.
- Children’s physical health needs were being met but some had experienced issues with the quality of food and opportunities for exercise in previous settings.
- Contact with family and friends was very important for the majority of children, and they wanted to be living closer to home.
- For many children, their quality of care and support had been affected by system-level challenges, including lack of co-ordination between services, insufficient funding for therapeutic interventions, a shortage of residential placements for children with complex needs, and uncertainty around transition planning.

Whether or not children agreed that the deprivation of liberty order had been necessary, they all felt it could have been implemented in a better way. For them, this would mean placing much more focus on their needs and views, and providing better support from the outset, including homes where they could feel safe and comfortable, professionals they could rely on, and the opportunity to move on positively from restrictions on their liberty as soon as possible.

Two key messages stood out from our interviews with children.

First, far fewer children should be deprived of their liberty. There is a critical need for high quality registered children's homes which can provide safe accommodation and therapeutic support for children living with trauma and at risk of harm, so that the core reasons for their behaviours can be addressed, in the least restrictive way possible, to enable them to thrive and achieve their potential.

Second, in the small number of cases where it is necessary to deprive children of their liberty, that should never be in an illegal children's home and should be based on a clear legislative and statutory framework. That means the law on depriving children of their liberty needs to be amended, with clarity and transparency provided through a statutory framework and guidance, to ensure that children have a stronger voice in the process and there is greater scrutiny of the effectiveness of the order and the quality of care they are receiving.

To improve children's experiences in the care system, and particularly the experiences of some of the most vulnerable children in care, the Children's Commissioner's office has made recommendations towards ten key goals:

Goal 1: Children have the support and stability they need to prevent escalation of their difficulties and deprivation of liberty wherever possible.

Goal 2: Children are involved and heard at all stages of intervention to address the root causes of their behaviour.

Goal 3: Every looked after child lives in a high quality home that meets all of their needs.

Goal 4: Children's social care and health work jointly to support children and provide specialist care settings where needed.

Goal 5: A new legal framework provides a mechanism for restrictions on children's liberty other than in a secure setting, supported by statutory guidance.

Goal 6: All looked after children are cared for by dedicated professionals who provide stability and love.

Goal 7: Children deprived of their liberty have their educational needs fully met.

Goal 8: Children receive the support they need with their mental health and overall wellbeing.

Goal 9: Children deprived of liberty stay connected to people who are important to them and to their community.

Goal 10: Children who have been deprived of their liberty receive carefully planned multi-agency support for as long as they need it.

While preventing a deprivation of liberty should always be the aim, it is possible that restrictions can be implemented in a way that keeps children's needs and views central, and that time spent living under such conditions can be used to provide intensive and nurturing support, with stability, targeted interventions, and positive experiences, giving children the chance for a brighter future.

1. Background

1.1 What does 'deprivation of liberty' mean?

Everyone, child or adult, has the right to liberty under Article 5 of the European Convention on Human Rights, as incorporated into UK law through the Human Rights Act 1998. Article 5(1) defines the circumstances where a deprivation of liberty for a child or young person may be justified, which are given as 'for the purpose of educational supervision or... for the purpose of bringing him before the competent legal authority' (Article 5(1)(d)) and in cases of 'unsound mind' (Article 5(1)(e)).⁵ A further definition of liberty beyond the physical meaning is found in Article 8 of the Convention, which states that 'Everyone has the right to respect for his private family life, home and correspondence' and that there should be no interference with this except in accordance with the law⁶.

A deprivation of liberty occurs when restrictions are placed on a child beyond what would normally be expected for a child of the same age, and these restrictions happen without valid consent.⁷ This might mean constant supervision, being restrained, or living somewhere they are not free to leave.⁸ It can also include conditions such as being denied access to a phone or the internet, and controls over communication with others, although restrictions on Article 8 rights alone do not usually amount to a deprivation of liberty.⁹

Under the United Nations Convention on the Rights of the Child, restricting a child's liberty should only be used as a last resort and only for the shortest appropriate period of time.¹⁰ Legislation sets out when children in England may be deprived of their liberty for welfare reasons (risks to their safety), for reasons of youth justice (when they are in custody), or mental health reasons. During their deprivation of liberty, children are usually placed in secure children's homes, mental health inpatient wards, young offenders institutions, or a secure training centre. The different ways children in England are deprived of their liberty are shown in Figure 1.

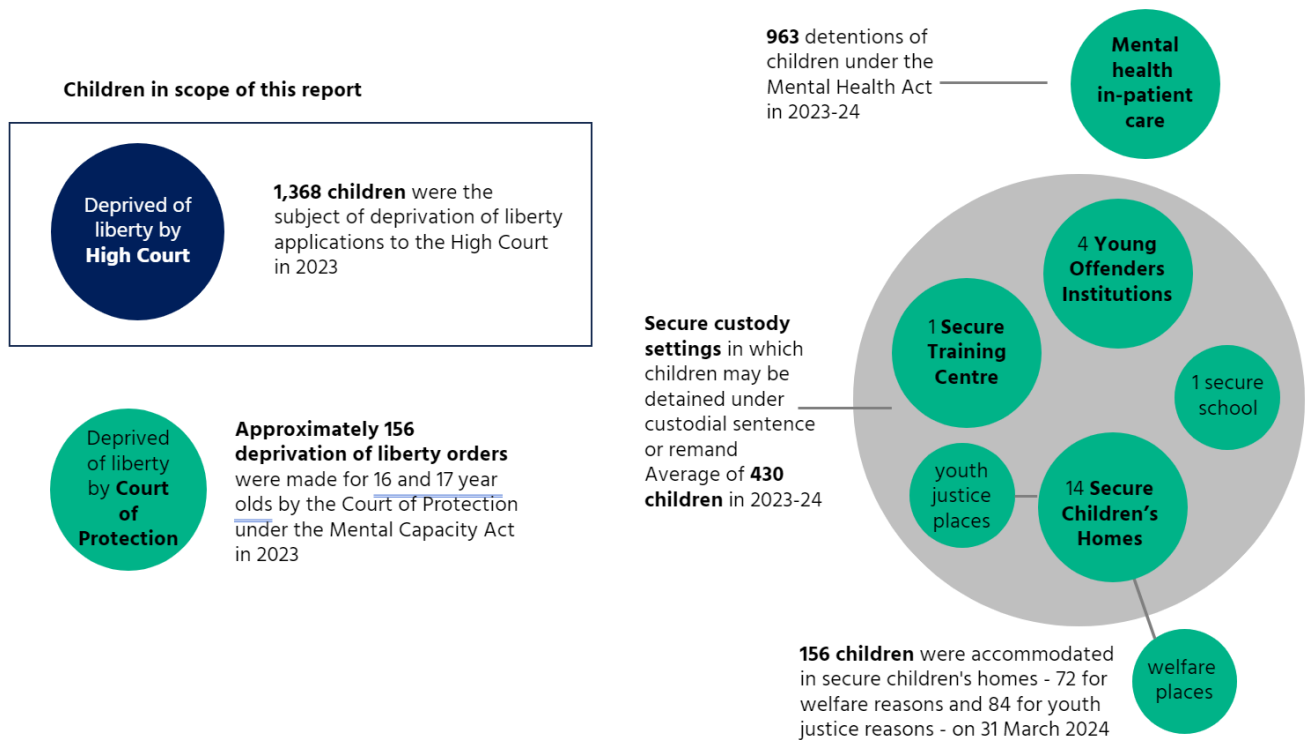
Legislation which authorises a child's deprivation of liberty in England is as follows:

- Section 25 of the Children Act 1989, which provides for the placement of looked-after children in secure children's homes;¹¹

- The Mental Health Act 1983, applicable to children and young people with mental health conditions who require a period of inpatient psychiatric care;¹²
- The Mental Capacity Act 2005, relevant to 16 and 17 year olds without capacity, to make decisions about their care arrangements. Their deprivation of liberty in a variety of settings can be authorised by the Court of Protection;¹³
- The youth remand provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;¹⁴ and
- the custodial sentencing provisions of the Power of Criminal Courts (Sentencing) Act 2000.¹⁵

However, some children are deprived of their liberty outside these legislative provisions; under the inherent jurisdiction of the High Court, through a deprivation of liberty (DoL) order. These children are the focus of this report.

Figure 1: The different ways children can be deprived of their liberty



Source: Children’s Commissioner’s office analysis of published data from NHS England, the Department for Education, the Nuffield Family Justice Observatory and the Ministry of Justice. Notes: diagram refers to the situation in England and Wales, except mental health inpatient care, which is England only. Area sizes shown are indicative and not intended to be proportional. Figures are not comparable as they relate to varying time periods (point in time, whole year, whole year average). There were 5 Young Offenders’ Institutions in 2023-24 but there are now 4 following the closure of Cookham Wood in 2024. Figures for children aged 16 and 17 who are deprived of liberty under the Mental Capacity Act are not identified from the published figure of 5,276 for both adults and children, but a Law Commission report (2024) noted that the figure of 13 applications per month from March 2023 is unlikely to have changed significantly; this would mean approximately 156 applications per year under this legislation.¹⁶

1.2 Deprivation of liberty orders

Inherent jurisdiction is used by courts when no piece of legislation provides a way for a child to be deprived of their liberty, but a judge rules that it is necessary to keep them safe.¹⁷ A shortage of secure children's home spaces means that it is not always possible to accommodate children in these settings under Section 25 of the Children Act 1989, even if it would be the most suitable placement for them. For other children, a secure children's home is not appropriate, for example those children who are deemed to require a solo placement. In these cases, the court can authorise a deprivation of liberty (DoL) order, making it lawful to restrict a child's freedom. The associated restrictions are outlined in the order, but these restrictions are permissive – it does not mean that care providers must implement all of the restrictions at all times. Application of restrictions should be responsive to need and in agreement with the child's social worker.¹⁸

Children who become subject to DoL orders have a range of needs. They include children who have complex mental health needs, with a high risk of self-harm, children who have experienced or are vulnerable to criminal or sexual exploitation, children who may cause harm to others, and children requiring support for significant behavioural problems who may react violently when distressed.¹⁹ Most of them will have experienced significant trauma, which manifests in the behaviours they exhibit. The vast majority are looked-after children, some having spent years in the care system and others entering care at the same time or shortly before the deprivation of liberty application is made.²⁰

Children subject to DoL orders by definition have a need for care. Therefore, those who are looked after by a local authority should be placed in a foster family or in a registered children's home.²¹ Their complex history and trauma means they need stability and a placement with a child-centred, therapeutic approach and staff equipped to meet their specific needs.^{22, 23} However, this does not always happen. Ofsted has raised concerns that registered children's homes may refuse to offer places to these children due to lack of staff or facilities, concerns about potential disruption to other resident children, or managerial fears it could negatively impact a setting's Ofsted rating due to challenges evidencing good outcomes.²⁴ When a registered children's home place cannot be found, children may be placed in illegal unregistered accommodation that may not be appropriate or suitable for the child's needs (this can happen to children both with and without a DoL order).

The number of deprivation of liberty orders has grown steadily over recent years. There were 579 applications in 2020/21 (a 462% increase since 2017/18).²⁵ Just two years later in 2023, the figure had reached 1,368 for the year.²⁶ For 2024, there were 590 applications in the six months up to June 2024 according to the most recent statistics.²⁷ In July 2022 the Family Division of the High Court set out a protocol to consider DoL applications (the DoL court from July 2022 until October 2023 and then the National DoL List from October 2023 onwards).ⁱ Most applications are made by local authorities, though some are made by hospitals or mental health trusts.²⁸ The Nuffield Family Justice Observatory (NFJO) gathered and analysed data from the national Deprivation of Liberty Court and published a series of reports, and HM Courts and Tribunals Service has now taken over responsibility for collecting and publishing this data as part of the Ministry of Justice Family Court Statistics. This means that children subject to DoL orders will be counted in some national statistics in future, although not in the looked after children data return from local authorities.²⁹

Children who become subject to deprivation of liberty orders will usually have had a long journey to that point and will have interacted with a number of systems, including children's social care, health, and potentially the police or youth justice. The Independent Review of Children's Social Care referred to children placed on deprivation of liberty orders in the context of a broken care system and lack of suitable accommodation for looked after children.³⁰ As a response to ongoing concerns, the Department for Education and NHS England's Task and Finish Group on 'Improving cross-sector support for children with multiple needs in complex situations' sought to gather evidence on children's experiences, challenges in the system, and examples of best practice, in order to inform the development of new integrated models of care, supported by key agencies and responsive to the needs of children.³¹ The Children's Commissioner's Office was commissioned to interview 15 children and young people with experience of being deprived of their liberty via the inherent jurisdiction of the High Court, to ensure their views and experiences are considered as part of this work.

ⁱ For more information see [Revised National Listing Protocol for applications that seek Deprivation of Liberty Orders relating to children under the inherent jurisdiction - Courts and Tribunals Judiciary](#)

1.3 Glossary of terms

Term	Definition
Deprivation of liberty	Occurs when restrictions are placed on a child's liberty beyond those normally expected for a child of the same age, without valid consent. This can be for welfare, youth justice or mental health reasons.
Deprivation of liberty order (DoL)	A term used to describe an order from the High Court in England and Wales (under its inherent jurisdiction, rather than specific legislation) that gives permission for a child in care to be put in a placement that deprives them of their liberty. The court must consider whether the order is in the best interests of the child, necessary, proportionate, and the least restrictive method available.
Inherent jurisdiction	The power of the High Court to make a decision where a child who is the subject of legal proceedings must be protected, and this protection is not possible under the Children Act 1989 (in this case to deprive a child of liberty outside existing legislation).

2. The research

This research was conducted by the Children's Commissioner's office between January and May 2024 and was commissioned by the Department for Education and NHS England's Task and Finish Group on 'Improving cross-sector support for children in complex situations with multiple needs'. The vision of the Task and Vision group is to improve how system partners work together to support better outcomes for children and young people who are currently (or at risk of) being deprived of their liberty and who are in the most complex situations. The aim is to ensure an aligned cross governmental approach in order to design, commission and deliver the best possible model of integrated care (children's social care, health, education and youth justice), supported by key stakeholders. To inform their work, the Task and Finish group wanted to hear from children with multiple needs, primarily in response to complex trauma, who are looked after by local authorities in England and whose high level of need and severe risk of harm had led to restrictions on their freedom under deprivation of liberty (DoL) orders via the inherent jurisdiction of the High Court.

The aim of the research was to increase understanding of the experiences of these children. Fifteen children with experience of living under a DoL order took part in the research, which aimed to understand what more could have been done for them, both before concerns escalated and while the order was in place. The children's interviews were complemented by interviews with two parents and five supporting professionals.

2.1 Recruitment

This research used qualitative interviews to explore the experiences of 15 children in the care of English local authorities, aged 13 to 17 years, with current or past experience of DoL orders, identified by the Children's Commissioner's office's Help at Hand service (n=6), and through email invitations to participate sent via local authorities (n=5), care home managers (n=3) and other advocacy services (n=1).

2.2 Interview dates and locations

Ten children were interviewed in person and three were interviewed online. One child who had severe autism and learning disabilities was visited in their placement but was unable to engage in an interview due to communication difficulties; two of their supporting adults were interviewed. One child chose to

share their views in writing. All in-person interviews occurred at the child's residential placement. With children's consent, the researchers conducted seven online interviews with adults supporting them (two parents, four social workers and one solicitor). The interviews took place between January and May 2024 and lasted around one hour. Children were each given a voucher worth £40 after their interview to thank them for their time.

2.3 Interview content and qualitative data analysis

Interview topic guides covered the following themes: events that led to the DoL order, restrictions, restraint, care provision, education, relationships, agency and participation in decisions, future hopes, and recommendations for how to improve care for children with similar needs. Where necessary, information provided by children was checked with professionals for context, but the focus remained on children's voices and lived experience. The research team undertook a thematic analysis of the qualitative data.

2.4 Ethical considerations

Given the vulnerable interview subjects and sensitive subject matter, ethical considerations were discussed, and mitigations put in place, as summarised below.

Informed written consent was given by all participants. The children interviewed were aged 13 to 17 and were considered able to consent on their own behalf. The children's permission was sought to invite their supporting adults (professionals and/or parent) to participate. Prior to the interviews, background information was collected for each child, usually through an online meeting with the child's social worker, key worker, or care home manager. This was to ensure a trauma-informed interview approach and identify any communication needs. The interviewers were flexible on how, where and when interviews were conducted, to accommodate the child's needs and preferences.

The office did not exercise its statutory powers of entry in conducting this research, partly in consideration of the fact that this group of children may feel less empowered than other children (those living at home with their parents) to say no to taking part in research being conducted by a public body. Staff had to cooperate with the request to access children currently being deprived of their liberty, and this may have coloured the initial presentation of the research to children. It could also have influenced not only the children who chose to participate but also what they said during the interviews. Many of the children described very difficult situations in the recent past but were now in more suitable

placements. It is possible that local authorities only put forward children they felt were in a stable and positive enough situation to participate, and who they felt were ready to share their experiences.

Where supervision restrictions allowed, children had a choice over who, in addition to the interviewers, was present during the interview. Some children were interviewed alone but most children had at least one of their key workers from the setting in the room with them or nearby. While this may have risked the child feeling uncomfortable discussing the quality of care they received, this did not appear to be the case based on the responses, and the interviewers observed positive and caring relationships between the child and the adults present.

The staff members who conducted the interviews for this project have professional experience of working with children and young people in vulnerable situations and with complex needs, with backgrounds in paediatric medicine and social work. At the end of the interview, they addressed any questions interviewees had about child rights and signposted to the Children's Commissioner's Help at Hand service for advocacy support. Given the involvement of the Help at Hand team, who intervene in individual cases to achieve change for children, the study team recognised a risk of those taking part holding unrealistic hopes that the project team would be able to arrange a move to another setting or make other changes in their lives. The information sheet made it clear that the research would not personally benefit interviewees but may help to change things in future for other children.

Participants are not named in this report, and no details which could enable identification have been included. Minor edits to correct syntax have been made to some quotes from the interviews.

2.5 Characteristics of interview participants

The research presents the experiences of 15 children: nine girls and six boys, aged 13 to 17 years. Thirteen of the children were white British, one was black British, and one child was of mixed Asian and European heritage. All were 'looked after children' - 11 children with a care order under section 31 of the Children Act 1989, and four children who had come into the care of the local authority with parental consent under section 20 of the Act. All of the participant children were looked after by local authorities in England. However, nine were placed in homes outside of their local authority area; seven in other parts of England, one child in Wales and one in Scotland. At the time of data collection, 10 of the children were under a DoL order, four had previously been the subject of one or more orders and one child was

segregated in a single bed hospital ward in a Tier 4ⁱⁱ child and adolescent mental health service (CAMHS) inpatient setting awaiting discharge on a DoL order. The duration of the DoL orders was between three months and just under three years.

It was not possible to recruit a balanced or representative sample given the lack of population benchmarks, voluntary nature of participation, and relatively small numbers of children who are subject to DoL orders. In particular, the team is aware that the ethnic mix of the interviewees may not reflect the proportion of children who are subject to DoL orders nationally. The NFJO's analysis found that, where data was available, it suggested that children from mixed or Black ethnic groups were overrepresented compared to the general population, though it cannot be guaranteed that this data is representative.³²

Children subject to DoL orders are not a homogenous group. While all may be considered vulnerable based on their multiple needs and histories of adversity, their life experiences are diverse and the reasons behind the restrictions on their freedom vary. As such, each child's health and social care needs will be unique to them. While this research focused on children who had complex needs and had experienced varying degrees of trauma, it is notable that five of the children were also neurodiverse and two had a learning disability, although this was not the main reason for the DoL order. This intersectionality, and the challenge of categorising children into clearly defined groups, is important to consider when assessing their needs and thinking about how these can be addressed through services and models of care.

ⁱⁱ Tier 4 child and adolescent mental health services (CAMHS) are highly specialised services designed to meet the needs of children and young people with the most complex, severe or persistent mental health problems.

3. Pen Portraits

The following pen portraits are fictitious but serve to illustrate commonalities among the experiences of children featured in this report.

Freya is 15 years old. She was known to social services from a young age due to parental domestic violence and neglect. Freya was placed with her grandparents but at the age of 13 they began to struggle to manage her behaviour, which stemmed from her childhood trauma and difficulties regulating her emotions. Freya stopped attending school and was frequently missing from home. She was found by the police to be visiting premises associated with violent gangs, drug dealers and sexual exploitation of underage girls. There were concerns that she was being groomed by a man with a criminal record. Her grandparents were unable to keep her safe and Freya was put on a care order and placed with a foster family. Freya's risk of exploitation persisted as she repeatedly absconded back to the area and, when found, was often under the influence of alcohol. She was moved to a children's home but continued to go missing. Lack of availability of a secure children's home placement led to the local authority obtaining a deprivation of liberty order for her. She was initially given a crisis placement in a caravan under 2:1 supervision before being housed under constant supervision in a registered children's home setting in a remote area 120 miles from her grandparents.

Ethan is 16 years old and autistic. At the age of ten he was taken into care under Section 20 as his parents were unable to manage his challenging behaviour in the family home. Ethan had outbursts when he became emotionally dysregulated, which could be violent, including destruction of property, self-injurious behaviour and aggression towards others. Ethan experienced seven specialist residential settings; however, none of them could manage his needs, and he was subjected to repeated episodes of restraint and isolation, which caused trauma and negatively affected his mental health. This increased his risk of harm to himself and others, and the absence of a suitable setting, led to Ethan becoming subject to a deprivation of liberty order in a solo unregistered placement with authorisation for 4:1 supervision and the use of physical restraint when required.

Rory is 15 years old. Aged five he was physically and emotionally abused by his mum's partner at the time. His mental health began deteriorating when he started secondary school, and he experienced symptoms of severe anxiety. He was placed on a Child and Adolescent Mental Health waiting list for assessment and support. During this wait time Rory started to self-harm and became a frequent attender at the hospital Accident and Emergency department with his mum, who felt increasingly unable to support his mental health problems at home. Rory was taken into care through care proceedings and placed in foster care. This led to an escalation in self-harm and a suicide attempt. He was assessed under the Mental Health Act and admitted to hospital. When he was ready for discharge, the local authority, after some delay due to disagreement with clinical staff about his needs, applied for a deprivation of liberty order and arranged a placement in a registered therapeutic children's home with 2:1 supervision.

Danny is a looked after child who lived with a number of foster families before moving into a children's home aged 13. He is a vulnerable young person as a result of his complex trauma from early childhood neglect, and his care staff and social worker became concerned that he was being groomed by a criminal gang after he started absconding from both the home and school, and drugs were found in his bedroom. Danny was later detained by police for carrying a concealed knife. The local authority arranged an emergency placement out of the area with a deprivation of liberty order authorising 2:1 supervision from staff at all times and denying him access to a phone or the internet. The order was subsequently extended, and Danny moved to a registered therapeutic children's home a significant distance from his home city.

Sophie has a learning disability and autism. She lived with her family until age 11 and then went to a residential special school and became a looked after child under Section 20. After two years, she started to become increasingly distressed and displayed behaviour that was challenging for the staff and other students, often requiring her to be restrained. The school served notice, but the local authority was unable to find an alternative specialist setting to meet Sophie's needs. After a particularly difficult episode, Sophie spent time in hospital, although she did not meet the criteria to be held under the Mental Health Act. Following pressure to discharge her, the local authority arranged a placement in an Airbnb, with 4:1 care and a deprivation of liberty order. Sophie stayed there for 9 months, attempting to abscond several times and experiencing frequent episodes of restraint. Ultimately, the local authority worked with a care agency to purchase a property and create a bespoke solo placement for her, with an application for Ofsted registration, and with the deprivation of liberty order remaining in place.

4. Findings and discussion

The themes identified from analysis of all interview transcripts are presented and discussed below alongside illustrative quotes.

4.1 Instability and lack of support prior to deprivation of liberty

“[DoL orders could be avoided by] actually getting that support for the young people. If that support was there in the first place a lot of people wouldn't be in this situation right now” – Child formerly subject to DoL order, 17.

The children who spoke to the Children's Commissioner's office had a range of experiences before becoming subject to a DoL order. There was some overlap between the experiences of different children, but each had a unique story.

Of the 15 children, nine had spent a number of years in local authority care following safeguarding concerns at home and subsequent care proceedings. These children had all moved between multiple placements in a range of settings, including foster care, children's homes, residential special schools, and unregistered settings (illegal children's homes). Their local authorities had experienced difficulties finding placements that could fully meet their needs, particularly as these needs and the perceived level of risk escalated.

Two children had come into care in adolescence, due to challenging behaviour when distressed or emotionally heightened, which their parents had been unable to manage. They had subsequently experienced a number of registered and unregistered placements, where it had not been possible for staff to keep them and those around them safe.

For the five children who were deemed to be at risk of criminal or sexual exploitation, three had started absconding while living with their families. These children had all experienced difficult home lives, and were struggling with trauma and mental health difficulties, which had made them more vulnerable to abuse in the community.

Five children had experienced extended stays in hospital due to a deterioration in their mental health, three of whom had been with their families prior to being hospitalised but became looked after while in hospital or upon discharge.

4.1.1. Difficulties at home

The children had a variety of reflections on their life at home before entering the care system. One child who had been on a care order for several years expressed their view that they might have been able to stay at home had their family been given the right support when they were struggling, which they felt would have led to better outcomes for them than going into care:

"There should be like social workers and therapists and other things, all working together. Just give as much support as you can to people you see struggling. Don't just rock up to their house and take their kids. You're only gonna make them struggle more, and then when the kids start acting out and they start becoming even badder than they were before, it's not their fault" - Child subject to DoL order, 14.

Another child had mixed views on their early experiences:

"If there was more help I probably could have stayed [at home], but then again I could have probably done with leaving earlier at the same time" – Child formerly subject to DoL order, 14.

Three children felt strongly that social care had placed too much emphasis on parenting deficiencies as central to their difficulties, behaviours and risk, rather than exploring their mental health needs and other potential triggers. This includes two children who were taken into care primarily due to a risk of extra-familial harm. However, while they did not feel that poor parenting was the key factor for them, they acknowledged that their behaviour was partly a response to difficulties at home, and that their parents were not necessarily equipped or supported to keep them safe.

"Instead of taking kids away from their families you should try and give them work [...] you should pick them up every other day and do sessions with them and their family, like parents [...], teach their parents something [...]there's so many families that have been broken apart [...] if a kid goes missing or something, maybe they want to tell you something, [...] maybe they're acting out. Or

maybe they're trying to get someone's attention so they can tell you something [...] Taking them away from their families is never the best thing I can assure you that right now" – Child subject to DoL order, 14.

"I don't even think I needed to be moved [out of home] I just wanted [local authority] to understand why. No one's ever asked me why, no one's ever understood why [reasons for absconding]... that's why I believe if [local authority] had done something correctly, instead of leaving me, and asked the real reason, then maybe yeah, I could have stayed at home and been unharmed and none of this would have ever happened [...] it's basically like they told me I'm not allowed to access my emotions" – Child subject to a DoL order, 15.

For three children who were living at home before entering hospital due to a mental health crisis and subsequently going into care under a DoL order, children's social care had been involved for some time before the situation escalated. One child felt this support had been wrongly directed towards parenting rather than focusing on their mental health, which they believed had made the situation at home even more difficult for them:

"They were putting it down to my family's choices and actions that made me the way I am. But it wasn't nothing to do with them. It was the way my mind was developing and the things that I was feeling. So, they just kind of blamed my family and wanted me to get away from them. So that's one of the main reasons I was sectioned in the first place because they said no, you're not allowed home"- Child formerly subject to DoL order, 17.

The impact of focusing on parenting rather than children's needs and complexity was also stated by a parent who was interviewed about the experiences of their child with autism and mental health needs:

"They thought it was me. They thought we'll take him away from his mother, put him in a different home and they thought it would be like a magic wand, and everything would be hunky dory. Well, it certainly wasn't, and from then on, he was passed around no less than 11 different homes in a year, all of which couldn't manage the way that he was presenting" - Parent of a child awaiting discharge from hospital on a DoL order.

According to the information they shared, some of the children who participated in this research could potentially have remained at home with an intensive package of support, with coordination between the local authority and health, education, or youth justice services, and with the right mental health interventions or positive mentoring in place. Putting resources into early help services could ensure that children do not spiral to the point where their parents can't manage their needs or they are at serious risk.

"They could have stepped up my mentor times because I had a mentor that I got on so well with, but it's because I barely saw him why I was running off... [He] was practically my best friend. I'd talk to him about anything that was going on..." Child subject to DoL order, 15.

"I don't think it's the parents' fault. Maybe in some cases, yeah. But I also feel like maybe it's the kid's fault. Maybe they haven't got as much support as they needed. And like part of me is blaming the social workers or whoever, because you're coming into a kid's life, but you're not seeing the fact that they're shouting out for help, not verbally, but they're doing it, I mean you think you guys know everything and then it's like, if you knew everything, you would have seen the signs from years ago. You know, I mean, you would have seen that this person was crying out for help, and it got to a point where they broke. That's something you can never mend again" - Child subject to DoL order, 14.

"A lot of the things that parents say are that 'We weren't offered support, we weren't able to manage, we repeatedly said to the local authority that we had these issues, you know, they're behaving in the home in a certain way that we can't look after their siblings if they're there. You have a lot of that [...] One of the things you could do is put that wrap around service in place for them. Like how can they stay at home? What can we do to make it better? What can we do to keep families together where parents might not necessarily be the issue, might be struggling to manage, some parenting issues, but if there's support services that are put in, can that reduce the need for issues later on down the line?'" - Solicitor with experience of supporting children with DoL orders.

However, for more than half of the children interviewed, their history suggests that it may not have been possible for them to stay with their families without experiencing significant harm. For these

children who enter the care system, it is essential that they have the support and stability they need to prevent further adverse childhood experiences.

4.1.2 In care

Statutory guidance is clear that local authorities have a responsibility to find the best available placement for every looked after child and should avoid disruption as far as possible.³³ However, many children experience multiple moves during their time in care, and this is particularly true for those who have complex needs and trauma. Seven children highlighted their unhappiness in care as the reason they started suffering difficulties with their mental health or absconding.

“If kids say they don’t like a placement and they don’t feel comfortable, or just anything like that, social workers should listen and take that on board and move them. ‘Cos when you don’t listen to us, obviously we’re going to go out and run off and everything and do this and do that because that’s our way of trying to get heard” - Child subject to DoL order, 15.

When children with a care order spoke about their placement history and moves, it was clear they had experienced significant instability and felt the impact of this.

“I’ve moved about 10 times [in 5 months] ... they keep sending me to placements that are like, you can only go there for one month, or like two months. So, they never send me to long term placements, always short term” – Child subject to DoL order, 15.

Nine children had moved all around the UK, often far from home. Their responses suggested this could be distressing:

“I was in places all over the country [...] I moved quite frequently ... as in over 20 places in two years [...] There’s a lot of uncertainty because you don’t know where you’re gonna go next, because you don’t know what’s gonna happen” - Child previously subject to DoL order, 14.

Some children said they were unaware of placement plans under the DoL and had no opportunity for a transition period:

"I literally woke up one day, I had some people from security there, and the social worker told me I was put on a DoLs and I was moving" – Child subject to DoL order, 15.

Frequent moves and changes of carer was often combined with a high turnover of social workers. This inconsistency of key relationships had a detrimental effect on children's mental health and wellbeing, their trust in professionals and ability to feel at home in any placement. Five children gave this as one of the reasons they felt their needs had never been fully understood or addressed:

"Like I've been through probably more social workers than [years] my dad's been alive" – Child subject to DoL order, 14.

"I've actually had so many social workers it's unreal [...] When they swap social workers sometimes information isn't passed on properly as well either. Stuff just gets missed"
- Child subject to DoL order, 15.

"It's like you can't really trust anyone 'cause you don't wanna make a relationship you're gonna lose" – Child formerly subject to DoL order, 14.

The stories shared in this research highlight the critical importance of providing children with the right support as early as possible, at home where this is safe, or in the right foster family or registered children's home where necessary. This could potentially prevent the escalation of risk that culminates in a deprivation of liberty order and the long-term impact this has on children's wellbeing and outcomes.

4.2 Opportunity for children to have their voices heard and be involved in decisions about their lives

"I can say what I like, and people can pretend to listen, but it never gets took into consideration, ever" – Child subject to DoL order, 15.

All of the children the Children's Commissioner's office spoke to during this research expressed a clear desire to be heard, understood, respected and consulted about decisions which have an impact on their

lives, as set out in Article 12 of the United Nations Convention on the Rights of the Child.ⁱⁱⁱ Children subject to deprivation of liberty proceedings should have a court guardian appointed, whose role is to listen to their views and to take these into account when making recommendations to the judge on their best interests. The child's social worker also has a responsibility to keep them informed of any decisions being made about them, to ascertain their wishes and feelings, and to explain decisions in terms they can understand.

4.2.1. Involvement in the court process

While two of the children interviewed by the Children's Commissioner's office felt they had been engaged in discussions during the legal process for their DoL order, the other children described their participation as limited. Children had been given the opportunity to share their feelings about their placement and DoL conditions in a general way with their guardian or social worker, but they were not convinced this had influenced the decisions made on their behalf:

"I think they asked me to write a little statement, but I don't really know what happened with that"- Child formerly subject to DoL order, 17.

"When I was first on the deprivation of liberty order I wasn't actually told anything about it. [...] They told me to attend a court hearing via video link. [...] I didn't have any legal advice [...] I didn't have a clue. They were just mentioning deprivation of liberty, this that and the other. I didn't even know about it or what it was to be honest. [...] I didn't have a guardian at that stage. [...] It was very, very quick. And then I moved to a worse, unregulated care setting"- Child subject to DoL order, 17.

Five children said their DoL order had not been explained to them until after it had been implemented:

"I was never actually told about it [...]. I said, 'Why's the door locked?' and they said 'Because

ⁱⁱⁱ Article 12: Children have the right to express their views on decisions that affect them, and their views should be given due weight in accordance with their age and maturity.

you've been put on a 3-month DoL order" – Child formerly subject to DoL order, 17.

"They didn't ask my opinion or explain it until after it was in place" – Child subject to DoL order, 16.

All of the children interviewed wanted a say in the decisions made about them. Four children stated that they would have liked to speak to the judge in the DoL proceedings, but were not given this opportunity:

"I personally find it weird because there's people controlling my life that have never even seen me. So, it's like I'm telling you, 'Go to this place right now'. But you've never even seen me. It's like [...] you're getting orders from someone you've never seen [...] I feel like they could at least have the balls to come and talk to me or tell me or call me in a court session [...] I feel like even though I can't keep myself safe, I know what's best for me" - Child subject to DoL order, 14.

It was clear from the interviews that failing to listen to young people and either incorporate their wishes into decisions, or to explain why this might not be possible in given circumstances, can cause anger, frustration and disengagement. This is potentially damaging to the formation of trusting relationships between children and their supporting professionals:

*"I hate when people ask me for opinions and then do the exact opposite. It's like, why the **** would you even ask me if you're not gonna do what I'm telling you? Why are you going to ask me how I feel if you're just gonna ignore it? [...] I feel like it's got to a point where I feel like no matter what I say, it doesn't matter. So, I just try not to say anything [...] I don't really put my input on stuff 'cause I feel like even if I do they're just gonna look high and they're just gonna be like, cool, okay, we're not gonna do that anyway"* – Child subject to a DoL order, 14.

Another child said:

"Instead of just making decisions for the kid. You know, maybe you could have asked for the kid, maybe come to, like, an agreement because I'm pretty sure if [local authority] said to me 'We're moving you here for so long', I would be like, 'Okay, cool' and I would have actually gone along

with it. But the fact that I had no say, it still enrages me to this day” – Child subject to DoL order, 15.

All of the professionals interviewed also expressed the importance of engaging young people in conversations about DoL orders. A solicitor said:

“She might not be Gillick competent^{iv}, but I think it's really important, even when they're not, that you're able to still try and engage them because young people still have a view to provide” – Solicitor.

One social worker reflected:

“[She] would always ask, ‘What am I at risk from?’. And it's sitting down with her and saying, ‘Look, this is what we think you're at risk from, this is the information we've been given’ and address that [...] To allow her to reflect on what had happened made her realise why people kept saying the word risk [...] She started to understand why she was at risk” - Social worker.

The interview responses highlight the importance of explaining to children why professionals perceive a need for a deprivation of their liberty and what risks this is aiming to protect them from. While children may still not agree with the restrictions, understanding why the decision has been made can be helpful to them and can potentially influence how they respond. and how long it is necessary to keep the restrictions in place.

4.2.2. Inclusion in care planning and placement decisions

Children spoke of their frustration about being judged on descriptions of them in assessments and paperwork, which in their view didn't provide a full or accurate picture. They felt this was an issue both in the court process and placement decisions.

^{iv} Gillick competence is concerned with determining a child's capacity to consent to medical treatment.

"My life would have been a lot easier and better if they'd just met me, like actually just sat down and got to know me at first rather than looking at the paperwork" – Child formerly subject to DoL order, 17.

The office also heard that children often weren't involved in decisions about their accommodation and didn't always know they were moving to a new setting until the time of transfer:

"They don't talk to me. They just put me where they want to. One morning I just woke up and I was here [...] Even if they asked me, they wouldn't listen" – Child subject to DoL order, 16.

"If you do have to take children away from their families you should explain it to them. 'Cos that's happened to me so many times. Like I've been taken away and no one's ever told me nothing about it" – Child subject to DoL order, 14.

Children who spoke of sudden unexpected moves had found the experience distressing:

"I got shipped here by [secure transport] and ever since, no one's asked me my opinion on do I want to be up here? How long I want to be up here. What do I want? Everyone's making decisions and it's just like, okay" – Child subject to DoL order, 14.

"They always tell us they will give me a proper transition and they never ever do. It's always either the morning or the day before that I find out I'm moving. It winds me up so much" – Child subject to DoL order, 15.

This sense of uncertainty, insecurity and helplessness appears to be a damaging factor for children and may explain their lack of trust in professionals and in the system, particularly when it comes to putting them at the centre of planning and recognising the impact of decisions on them.

4.2.3 Agency in the placement

Seven children also spoke directly about not feeling listened to in their residential placements, though they usually felt this had been more of a problem in previous settings. One child spoke about feeling unheard when their care home manager advised them to fill in a complaint form after they raised an

issue about a keyworker:

“Why is it getting to a point where I have to write on a piece of paper how I feel? Like no. If I say something, if I feel something [...] if I verbally, like, speak out on it., you guys should take it into consideration and do something. Like this is meant to be my safe environment [...] somewhere I feel respected, somewhere I feel heard. I don't feel any of that right now” - Child subject to DoL order, 14.

Eight children felt that staff in their current placement were good at listening to them and involving them in decisions about their day-to-day care, for example giving them choices over their meals, activities and how to spend their time in the home. Children also had opportunities to raise issues at weekly or monthly meetings with residential staff, and at reviews with their social care team. However, this very much depended on the professionals involved:

“My key worker always explained it to me. He told me about everything when he was on shift, but if it was something that happened when he wasn't there, I didn't get explained anything, and it would take a lot for me to go and ask someone” - Child formerly subject to DoL order, 17.

Seven children had an independent advocate, and eight children did not. One child who did not have an advocate felt that this would have been useful for them and should have been offered.

“Young people should be heard. [...] They should be able to have an advocacy service, or not have an advocacy service [if they don't want it]... because nobody told me about an advocacy service while I was in care” - Child subject to DoL order, 17.

The parent of a child with autism and learning disabilities spoke of the importance of a quality advocacy service. They spoke highly of their child's advocate:

“She's been really good for [name]. I think that's another important thing to say. To have as many advocates as possible who can speak up for [name] and be on his side. Not to take a side or the opposite but be there for him” – Parent of child subject to a DoL order.

The overall theme from the interviews is that children want to feel part of decisions about their lives. Two children described circumstances where they felt they had been given the opportunity to input

into decisions about the restrictions imposed on them, and they associated this with a more positive experience of the DoL order.

“So yeah, it was like a short time on it, and it progressed really quickly. So at every review and stuff, like they was always taking stuff off that they felt they could compromise with” - Child formerly subject to DoL order, 17.

This suggests that the DoL process could be improved by professionals working in partnership with children wherever possible, to reduce their sense that circumstances are beyond their control and that things are simply being done to them. Enhancing children’s sense of agency appears to have a positive impact on their motivation to make the changes needed to reduce their risk and can potentially lead to restrictions being lifted more quickly.

4.3 Restrictions associated with deprivation of liberty order

“I just kind of sat there, hoping something will get better” – Child formerly subject to DoL order, 14.

While deprivation of liberty orders make it lawful to restrict a child’s freedom, the restrictions set out in the order are a maximum and their application should be responsive to need.³⁴ The children interviewed by the Children's Commissioner's office experienced a number of restrictions on their liberty, including:

- Supervision at all times.
- Locked doors and windows.
- No (or highly restricted/supervised) access to mobile phones, digital devices, or online resources.
- Use of physical and chemical restraint when needed.
- Staff control/supervision of spending of personal funds.

Supervision ratios varied from one to four members of care staff per child, usually for 24 hours a day, with ratios sometimes changing depending on the time of day or whether the child was in their placement or the community. Higher ratios of supervision existed for boys with autism who had DoL orders in place to prevent physical harm to themselves or others. Most children had privacy in the

bathroom unless they were at significant risk of self-harm, but otherwise supervising adults were constantly present. Many children expressed dissatisfaction with being under constant supervision:

"I had to have two people in the bathroom...I had to have people in my room ...I couldn't have anything whatsoever [...] I couldn't have wires, phone and internet [...] I just kind of sat there, hoping that something will get better" – Child formerly subject to DoL order, 14.

One child previously on a DoL order explained that they had to have supervision during visits from their father and therefore felt unable to talk about the care they were experiencing:

"I felt like I couldn't be honest with my dad. I didn't feel like I had any privacy at all. Because like now I can chat with my dad about things that upset me or annoy me around the home. But when they're there I can't actually say it because they're listening to me" – Child formerly subject to DoL order, 17.

Children were able to leave the placement premises, for example to go for a walk, drive or trip out, but they had to be supervised in line with the order. The time, frequency and destination of trips were often at the discretion of the care staff. One child with autism had been given extremely limited time outside for more than a year, which was highly distressing for him and his family.

"I think he only went out probably about four or five times in the space of a year and a bit. And they actually refused to take him out in the end" – Parent of child subject to DoL order.

All of the children who spoke to the Children's Commissioner's office were aware of the restrictions imposed on them and appeared to have some understanding of why they were in place. However, most also felt the extent and duration of the restrictions was unfair and unjustified.

"So, when I go out somewhere I have the staff with me to keep me safe. So I don't run off [...] they keep me safe in case I hurt myself" - Child subject to DoL order, 16.

"I think it was okay [to have the restrictions] but not for as long as it was [...] It just felt like it got more and more annoying as time went on because I was like 'I am okay, I can do this'" – Child formerly subject to DoL order, 17.

"I absolutely hate it but there's not much I can do" – Child subject DoL order, 15.

Children expressed the importance of feeling they had a degree of freedom and control over their lives, as enjoyed by most teenagers. All of the children interviewed wanted 'normal lives'; to have the same opportunities and experiences as others:

"[I'd like] ...to go to the gym and swimming by myself. Going for a walk by myself. So, personal time. Going on a walk to the seafront by myself. Going to the shop by myself and seeing a friend by myself" - Child subject to DoL order, 16.

"I feel cared for, but I don't exactly want to be here. It's not the staff or the placement. I think it's more the rules. Like I can't see my friends. I can't have free time or nothing. It's far away from home" - Child subject to DoL order, 15.

Four children spoke particularly strongly about the impact the restrictions had had on them:

"I was locked in, and I wasn't allowed to go out unless I was followed ... and not being able to see my family...it was hard having no contact with them. After a while what seemed like hell became my normal" – Child formerly subject to DoL order, 17.

"If I would have to do it again, I'd change what I'd done so I'd never have to go on one of those. I'd probably kill myself if I had to go on one of those again. It was hard at the beginning. It was hard" – Child formerly subject to DoL order, 17.

The enforcement of restrictions was usually through negotiation and implementation of consequences if children did not adhere to them, for example reinstating the maximum limits on access to phones and digital devices or increasing the ratio of staff supervision if this had decreased.

However, five children spoke positively about staff being flexible with restrictions and working within them to accommodate their participation in activities they enjoyed, including time with friends:

"They still promoted me, going to my dance, which was good, which meant I got to see my best mate, like, every week, which was nice. And then sometimes she came over and stayed over" - Child formerly subject to DoL order, 17.

In these cases, staff relaxed restrictions in line with children's behaviour, which gave them hope and motivation to continue their progress:

"I had my phone take off me for the first 2 weeks, but when it went back to court, they were like, 'She can have her phone cos she's been good'. And with going out...at first, they'd only let me go out for 15 minutes, and then they'd up it to like, 25 minutes, and it would go to 30 minutes, and then it'd like come up to an hour- Child formerly subject to DoL order, 17.

Others expressed their frustration about the persistence of restrictions and renewal of their DoL order. One child felt they weren't being given the opportunity to demonstrate that the restrictions were no longer necessary:

"Nobody asks how I feel. Nobody asks what I want [...] I know I'm only a young girl and you guys might think...she's not ready to look after herself [...] I know how to approach some things, and even if I don't, leave that up to me because I'm then gonna learn from that mistake [...] I feel like I'm being babied while I'm here" – Child subject to DoL order, 14.

Children experienced sadness, anger, loneliness, frustration and boredom living under the DoL. They felt anxiety and uncertainty about their futures, and three children described a loss of hope. The Children's Commissioner's office asked the children what their aspirations were for the future; many just wanted a 'normal' life:

"A home that's settled where I can have free time, I can go to school, where I can go to college. Just...normal" - Child subject to DoL order, 15.

The interview evidence suggests that it is very important to children that restrictions are in place for the minimum time necessary and that professionals consider the impact of the measures on them. They want their carers to have a supportive and flexible approach, to recognise positive progress, and to work in partnership with them towards goals that will give them more freedom and hope for the future. From the children the office spoke to, it appears that, when this had happened, the DoL order had a more positive impact and was lifted after a shorter period of time (3 to 6 months).

One parent highlighted the rights implications of keeping children under restrictions for an extended

period, and the impact on their child at a human level:

"I think what people tend to forget is that everyone's human, [name] is human. He's going to react in a human way, and perhaps he's got severe autism, but if you and me were told what to do every day: 'Sit down, stand up, have lunch, you're not allowed to watch that, don't interfere with...' you would get so bored of it. And in the Airbnb, you've got four people just staring at you the whole time and you've just got one tablet for entertainment - you'd go nuts. If you weren't allowed outside, you'd go absolutely crazy. People seem to think, 'Oh, he's got autism, it doesn't matter'. [...] Just because somebody's got autism doesn't mean they don't count, they don't have feelings, they don't have emotions. You can't just use that as an excuse to not provide them with a normal human life" - Parent of a child subject to DoL order.

4.4 Quality of placement and care

"In a care role – care means caring, passionate, perseverance, committed to the role [...] Children need care, compassion, love because they might have been neglected, they might have been abused [...] I'm not saying go beyond a professional barrier but maybe, I know of homes that sit together as a family, maybe in PJs and watch a movie together, I know of homes that do things together as a family. I've looked it up because I wanted better homes" - Child subject to DoL order, 17.

The accommodation and care provided to children with a DoL order should meet the standards set out in law and guidance for all looked after children.³⁵ Statutory regulations prohibit the placement of children aged under 16, or those under 18 and being provided with care, in settings which are not registered children's homes.³⁶ Since October 2023 it has also been a legal requirement for all supported accommodation for 16 and 17 year olds to be registered with Ofsted, although these settings are not required to provide care or to meet the same standards as children's homes.³⁷ Ofsted guidance states that children of any age subject to a DoL order generally require high levels of care and supervision and will most likely need to be placed in a children's home.³⁸ However, for some children with a DoL order, the local authority is not able to find a suitable children's home that is willing to offer a place, and the only available option is an unregistered (and therefore illegal) placement. In 2021 the Court of Appeal held that the inherent jurisdiction may be used to authorise a deprivation of liberty in an unregistered

placement, so long as certain requirements are met. The President of the Family Division has issued practice guidance, which sets out the Court's role in enquiring whether a placement is registered and, if not, why the local authority considers it to be in the child's best interests, and the Court may order the local authority to inform Ofsted/CIW within 7 days if it is placing a child in an unregistered placement.³⁹

While the accommodation of children in unregistered settings is often an emergency interim measure, in some cases the arrangement remains in place for months or even years. In these placements, the staff team providing support to the child may be registered with the Care Quality Commission, particularly if the child has health needs; however, there is no mandatory registration for support agencies providing care to children in community settings.

Ten of the children who shared their views with the CCo were living in registered children's homes while the DoL order was in place. This may be due in part to how the office identified participants, as professionals were more likely to suggest children who were in stable situations and who were willing and able to discuss their experiences. Four children were placed in unregistered settings at the time of the interview, though the registration process was underway. One child was in hospital awaiting a placement. In the unregistered settings, three of the care teams were CQC registered, and one team was not.

Nine children were placed out of area and were very unhappy about this, expressing their strong wish to be nearer their family and in an area they are familiar with. This was the case even when they were positive about their current home and care team.

"I don't need a bigger house. I want to be in [hometown]" – Child subject to DoL order, 16.

"I just wanna go back home. Like, not even at home, just closer to home" – Child subject to DoL order, 14.

4.4.1 Environment

The settings varied in terms of environment and décor but were generally clean and well furnished. They usually had some evidence of personalisation, such as family photos, artwork, and the child's achievement certificates on the wall, and some settings also had a sensory room. For three children, a

'bespoke' placement had been created. This meant a house had been rented or bought by the local authority or care agency, with staff commissioned to provide 24-hour care. This had been seen by the local authority as the only option after no registered setting had agreed to offer a place, despite extensive searches for many months. Of the bespoke settings, one had been registered as a children's home with Ofsted, and two were undergoing registration. While some children had previous poor experiences of bespoke arrangements, all the bespoke settings visited for the research appeared to be of good quality and suitable for the children, who had usually been involved in choosing the decoration, bedding and other items. This extra consideration and personalisation felt positive for them, and their parents and professionals also noted the difference in how well they had been able to settle compared to previous placements:

"You'd go there before, and all the bedding would be stripped off. There'd be nothing in the room, you know. And they were like, 'Well, he doesn't have anything in his room'. And if you go there now, he's got furniture in his room, he's got curtains on his windows. He keeps his bedding on the bed. He'll take the sheet off, but he'll keep the quilt on, which again, is a major improvement. And that's all because he's been allowed to choose. He's had an element of choice" – Social worker.

In six cases, children and professionals described inadequate conditions in previous initial or emergency placements where they had been accommodated; for three children this was while they were on a DoL order. Emergency placements are used when the local authority has been unable to find a registered setting to meet children's needs, so has to make more ad hoc arrangements at short notice, for example using an unregistered setting or arranging a hotel or Airbnb while searches continue. These are often unsuitable for children but may be the only option the local authority has at that time.

"It was just a horrible scruffy little council house. It was an emergency placement [...] My bedroom light didn't turn on, my door didn't shut" – Child subject to DoL order, 15.

"We were reacting to crisis and putting out fires. We weren't meeting his needs. We were surviving on a daily basis in the hope that he didn't injure himself, in the hope that there wasn't a complaint" – Social worker.

All these places have been unregulated, this [placement with DoL] is the first regulated placement by CQC that I'm currently in now, but I've only been in one Ofsted Good home before"
– Child subject to DoL order, 17.

4.4.2 Care

During the interview visits, care staff at the placements were helpful and friendly, and appeared to have a warm and nurturing relationship with the children they were caring for. All of the children had some positive things to say about their current staff team.

"Here they are really caring and go above and beyond" – Child subject to DoL order, 17.

"10 out of 10 ...The staff and my mum do a great job" - Child subject to DoL order, 16.

Eight children, when asked about who was important to them, named the staff in their current setting and said they felt well cared for and confident that they could go to staff if they had any problems. However, according to most children, the quality of staff can be variable, and they often referred to far less positive experiences in previous placements. Again, this may be related to how children were selected for the research, as they were in higher quality placements, which enabled them to reflect on how this contrasted with their previous experiences:

"Here I've actually received (sic) people who will actually spend time with me, who've actually showed that they love me ... who would actually never leave me for the world ...Where in my last placement you could always just see that they've had enough ...You can see that they honestly just don't care about what they're doing" - Child formerly subject to DoL order, 14.

"There were some staff there who I got on with really well with and some who just didn't care. The staff that did care would take me out ... away from the house, and other staff would just sit there and not talk to you, blatantly not talk to you" – Child formerly subject to DoL order, 17.

"It only felt like I was looked after because they had to. It wasn't like a caring aspect. It was just 'You're on the DoLs, this is what we have to do'" - Child formerly subject to DoL order, 17.

Children felt particularly negative about staff teams in emergency placements, or their first placement after becoming subject to a DoL order:

"It was terrible ...the staff there was rubbish – didn't know what their job is ... I didn't even know their (staff) names" - Child subject to DoL order, 16.

"[In] the agency placement the staff were absolutely horrible ... They would treat you like actual crap ... And the environment always felt quite unsafe ...There was always so much going on with them and they'd always talk about their personal lives and stuff [...] they don't want to be there, and you can see that" – Child previously subject to DoL order, 14.

Children commented on how they felt staff did not always have the training to meeting their needs:

"I think, if anything, they should give all care home staff more training in how to actually manage the kids. I've been there with managers like kids... like, arguing back isn't going to make anything better. They should need more training and more, like, work on how to deal with kids, like if the situation gets out of hand what do you do [...] In the first care home I was in I got dragged down the stairs by one staff member" - Child formerly subject to DoL order, 17.

"Why don't staff have NVQs, child development qualifications? Children aren't progressing, but surely you want them to progress" – Child subject to DoL order, 17.

The parent of a child with autism also felt that inadequately trained staff in an unregistered setting had a severely detrimental impact on their child:

"They had no clue about things like his sensory diet or anything like that. They were just happy to feed him frozen meals. They went out of their way not to really want to take him out, you know, because he was a danger, because when he gets challenging, he's a danger to people. So, they just seemed to use that as an excuse not to take him out. They were just totally ill-equipped" - Parent of child subject to DoL order.

One social worker advocated for PACE^v training for all professionals working with children subject to DoL orders, as they perceived this therapeutic approach had positively impacted the child they supported. Similarly, another social worker felt there should be greater investment in ensuring carers are able to demonstrate appropriate emotional responses and empathy towards the children in their care:

"The emotional IQ [in care settings] is not spoken of. It's dumbed down, but when we're talking at looking at carers and training in particular, that's the building block, isn't it, to empathy and understanding? [...] That training around emotional IQ, it's always absent"

- Social worker of child subject to DoL order.

The importance of residential workers showing they genuinely care was expressed by children:

"Being here ... even though it was a rocky start ... the people here kept saying that they're not gonna give me up ... which actually made me feel like someone wanting me for once. And as time went on, I have started to trust and finally love the people around me. Like they're my family at this point" – Child formerly subject to DoL order, 14.

"...having the right staff around. Knowing they care. Knowing that you can have help if you need it" – Child subject to DoL order, 15.

"You should treat children like you'd treat your own children. Even if there have to be more measures in place. Care means caring, passionate, perseverance, committed to the role. Some people come into this job because they consider it easy, but not in this company"

– Child subject to DoL order, 17.

^v PACE (Playfulness, Acceptance, Curiosity and Empathy) is a trauma-informed approach to caring for children, developed by the psychologist Dr Dan Hughes. The goal is to create a safe environment for children by promoting secure attachments and enabling them to reflect on their thoughts and behaviours without judgement.

Children and parents felt that the quality of care could improve if there was an increased understanding by supporting professionals of how to address the needs of children experiencing neurodiversity and disabilities:

"You need to do work with the young person and understand why they have certain behaviours"
– Child subject to DoL order, 17.

"I want him to be in a place where he is properly supported by staff and caregivers who have the right training, the right knowledge to be able to care for my son properly. I want him to feel safe. I want his sensory needs to be met. I want it to be in an environment which isn't triggering for him" – Parent of a child awaiting hospital discharge on a DoL order.

Children, parents and professionals commented on the need to recruit and retain good carers and support workers. They were unhappy with the reliance on agency carers, which results in a high turnover of staff and impacts a child's ability to build relationships with their caregivers. Children felt that inconsistency of staff could be very disruptive to their mental wellbeing and make it harder to settle:

"Since coming here, there was a lot of different staff members coming and going [...] It prolonged [my ability to settle in] a lot more because I feel like that's why I didn't really have someone to talk to, because I didn't know who was staying, who was going. It was just a really confusing time for me [...] having that consistency in a relationship that you can build and not feel that attachment being pulled apart would have been better"
- Child formerly subject to DoL order, 17.

"I think that they need the same staff. Not staff like agency that come in on a shift that you don't know, and they need to be with them all the time, so they get to know them, instead of having new people coming, and you're like, 'Oh, who are you?'" Child subject to DoL order, 15.

In contrast, children described how a consistent, caring staff team could make a huge difference. One child experienced several changes of carers early in their DoL order but, after their support team became more stable, they made good progress and were able to move off the DoL order and to stay in the same solo children's home placement with the care staff:

".. all the staff now have been with me for over a year. [...] and it's been a lot better to build up bonds with them. [...] having the time to build the relationship and getting to know them more it's got a lot better [...] It's nice to spend time with them"

– Child formerly subject to DoL order, 17.

One professional commented on the need to ensure there is a diverse care team around the child which includes staff members representative of the child's ethnicity and culture:

"And I just think you've got to look at, if we're being holistic about things, should we be holistic about the makeup of a carers? What I was saying is - and this would be applied to anybody regardless of cultural background - should we be giving consideration to the make-up, the ethnicity and cultural backgrounds of a care team, particularly specific to children with speech and language difficulties. Should that be a consideration?" - Social worker.

However, the key issue for children appears to be the relationship they have with their care staff, and whether they believe the people looking after them on a daily basis truly care about them, are invested in supporting them, and have the expertise required to recognise and meet their needs.

Given that all children on a DoL order have complex needs for a range of reasons and are also situationally vulnerable due to being isolated and highly dependent on their carers for their safety and quality of life, it is concerning that some children continue to be placed in illegal unregistered or ad hoc settings, often far from home. Children recognised this and were understandably angry, and in some cases traumatised, by past experiences of poor care, at a time when they needed stability and love.

4.5 Restraint and segregation

"Because the order is there, they feel they can use it, restrain. But it should be the least restrictive. Things are interpreted differently" – Child subject DoL order, 17.

Under the Children's Home Regulations, restraint is defined as using force on a child or restricting their liberty of movement through physically holding them or changing their environment. It can also include mechanical restraint (physical intervention using authorised equipment) and chemical restraint (the use

of medication which is prescribed for managing behaviour). It is only permitted for the purpose of preventing injury to any person (including the child) and serious damage to the property of any person (including the child) and must always be necessary and proportionate, and mechanical and chemical restraint should only be used by appropriately trained staff in line with best practice guidance. When a child is restrained, this should be recorded by the children's home, and the child should have the opportunity to discuss their feelings about the restraint within 24 hours, with the opportunity to speak to an advocate if they wish to.⁴⁰ Unfortunately, restraint is not always used appropriately for children in residential settings, and this has been documented in a number of reports.⁴¹ Children and their families report that restraint and restrictive intervention are highly traumatising and can have a long-term impact on health and wellbeing. The government has also been clear that prolonged and institutionalised use of restrictive interventions are an issue of concern.⁴²

From the interviews conducted for this research, it appears that, for a small number of children living with a DoL order, restraint has been used on a regular basis, usually when children are displaying extreme distress. In some cases, this distress appears to have been exacerbated by living in an unsuitable care environment.

Four of the children interviewed by the Children's Commissioner's office had experienced regular episodes of restraint while subject to a DoL order. These children all had autism, a learning disability, or both. Some children said they understood the need for restraint when it kept them safe:

"Sometimes, if I want to hurt myself or hit my head, the staff have to restrain me to keep me safe [...] It's okay. They're just doing it to keep me safe" – Child subject to DoL order, 16.

"... having the staff to, like, keep me safe and other people safe [...] This care home and another care home was the only two care homes that could do, like holds ... so it's like, not better, but it's better" – Child subject to DoL order, 15.

However, children, parents, and professionals also referred to incidents of inappropriate restraint:

"There should be more of a de-escalation approach. I have been restrained in many inappropriate ways in other care settings. They have used pain inflicted. These are people. Why are you in a care job if you want to cause pain to someone?" – Child subject to DoL order, 17.

"To me it's akin to him being under security; they weren't like carers, it was security. And I think although they would argue that he was dysregulating 19 times a day and they've got it down to

like 7 or 8 ... I think that was because of bullying. And fear, I don't think it was because they were doing great work"- Social worker of child subject to DoL order.

Five children had experienced occasional restraint, which was usually near the beginning of their time under a DoL order:

"I did have to be restrained once. I'm sure it was on my DoL because it was about my door being open or shut. It had to be open at all times. But I shut my door because I was having a bad day, and the staff were just grilling and grilling at me and I got quite mad and then the staff started banging my door open. So, I was slamming it shut. And then it got to a point where they barged it open. They kicked the door off the hinges. And they just got me in a restraint, and were just like 'Well, you know you're not leaving' and then calmed me down and that was about it [...] It wasn't okay at all [...] because I kept saying to staff, 'Give me 5 minutes, okay, just I need to calm down. Give me 5 minutes'. And I did make a formal complaint about it, [...] because I didn't feel like I was listened to "- Child formerly subject to DoL order, 17.

"The first day I was on the DoL [...] I tried to get out the window and then I ran upstairs, smashed the window and tried to jump out the window. And I attacked one of the staff. So, three staff had to get me on the floor, I had one of them holding my legs and one on my arms, 'cos I tried to spit at them too, so they had to get me on the floor"- Child formerly subject to DoL, 17.

None of the children reported being segregated or isolated in their current placement. However, ten of the children were in solo placements. The children who were in hospital before moving to the community with the DoL order had experienced segregation during their hospital stays because staff on the ward found their behaviour challenging and a risk to others. These children had also been physically and chemically restrained while in hospital, for distress which their clinicians noted was made more acute by their prolonged stay in a hospital environment, which was not suitable for them. The children did not wish to speak in detail about these experiences, but information shared by their professionals and family indicates that this was a traumatic experience for them.

It was positive to hear that, for all children who had experienced restraint, this had reduced significantly after they moved to a more appropriate home setting. The key factor appears to have been the introduction of an experienced, child-centred care team, with a clearly defined and compassionate

approach, based on principles such as Positive Behaviour Support^{vi} and PACE. This had meant that, while the DoL authorisation for physical and chemical restraints remained in place, and these were still used on occasion, children had been able to build trust with their carers, and to feel safer and more comfortable in their environment.

“So I think his challenging behaviours were rising to the full because people weren't listening and therefore he was being restrained more than he actually needed to be, and now we've moved to [company name] they've got a better communication with him. They give him plenty of processing time and that helps reduce the incidents so that you don't need to restrain him, and you don't need to restrain him as long” – Parent of child subject to DoL order.

“I think having the right staff around [helped reduce the frequency of restraints]. Knowing they care. Knowing that you can have help if you need it. And just taking your time breathing” – Child subject to DoL order, 15.

The positive impact of dedicated staff and a nurturing home setting appears to strengthen children's ability to manage their emotions and responses to stress, reducing the need for restraint. This highlights the importance of recognising that children's behaviour can often be driven by their environment and care, so providing the right setting and staff team can be a key factor in limiting their distress and supporting them to thrive.

4.6 Education

“[I still need] a bit of support with my school and stuff, because I honestly don't know where I'm going with my future [...] And it also is quite scary because you think sometimes your past will kind of affect it a bit” – Child previously subject to DoL order, 14.

^{vi} Positive Behaviour Support (PBS) is a person-centred approach to identifying and meeting a person's support needs, in particular if someone is distressed and at risk of harming themselves or others. PBS is most commonly used to support people with learning disabilities and autism.

Local authorities have a duty to promote the educational achievement of looked after children wherever they are living, and to support them to achieve their potential.⁴³ The findings from the interviews with children on DoL orders and their supporting professionals suggest that many local authorities are falling short on this responsibility for children in complex situations with multiple needs.

“I don't think it's fair that they're making us miss out on our education because they don't know where to put us” – Child subject to DoL order, 15.

All of the children interviewed had missed some education prior to being subject to a DoL order. The reasons for this varied but were usually similar to those that had led to the DoL order, such as frequent absconding, serious mental health concerns, or challenging behaviour. All children had access to some form of education while subject to the DoL order, but the quantity and quality of provision varied. Five children attended an external education provision with restrictions in place. One of the children was placed on a DoL order just before her GCSEs and was supported to continue to attend school to complete her exams. While this is positive, the circumstances under which this had to happen were difficult:

“The hardest thing was taking them to school with me. I was literally starting my GCSEs. To the point where I couldn't even sit with the others, I had to be in a room on my own ... I had a teacher in there and the [care] staff, and the doors were locked, and that's how I did my GCSEs” – Child formerly subject to DoL order, 17.

Another child had the option of attending college in person but chose to access provision online. All other children received 1:1 tuition in their placement. All but two children had received far fewer hours of education provision while on a DoL order than is typical for their peers living in the community without restrictions, whether in mainstream school or a specialist setting.^{vii} One child who would have been accessing a mainstream state-funded school if they were not subject to a DoL order received only

^{vii} State-funded mainstream schools are expected to provide a 32.5 hour school week and, while specialist settings, including special schools and alternative provision, may have a shorter school week to cater for the diverse needs of the children they support, government guidance states that they should share the overall ambition to increase the length of the school week, where it is beneficial for their pupils to do so.

two hours a week of face-to-face tuition. The rest of their week involved self-study towards an ASDAN qualification.^{viii} Several children with the potential to study for and achieve GCSE qualifications were not given the opportunity to do so while they were subject to the DoL order:

"I didn't end up doing my GCSEs because of the restrictions and stuff [...] I needed to actually get on a curriculum and the nearest school in this company was [name] which only offered functional skills, so I couldn't do anything [else]. It's not a good qualification to have. It's one the universities don't even accept" – Child formerly subject to DoL order, 17.

Children often had to study the limited courses or subjects that were available to them rather than what they were interested in or would help them to achieve their future goals. Professionals commented that children were not being supported to reach their potential educational attainment and recognised the impact this could have on their opportunities later in life:

"I think three 30-minute sessions isn't going to make much impact in helping a bright young man reach his potential. He loves learning and getting certificates. It's a shame he doesn't go to a centre, I think that would motivate him more. He wouldn't still be in his pyjamas or sleeping in late" – Social worker.

"Her education is disrupted, it hinders her progress. [...] She might not have the same opportunities as everybody else does. There's lots of aspirations that, you know, she might not be able to achieve if the wrap around services just aren't there for her" – Solicitor.

One child spoke of their wish to be in a mainstream school setting:

"I would like to go to mainstream because my school at the moment only has about three other people in it" – Child subject to DoL order, 13.

There were occasional examples of positive home provision. One child was supported with his interest

^{viii} ASDAN (Award Scheme Development and Accreditation Network) is an awarding organisation providing courses, accredited curriculum programmes and regulated qualifications which can be used to help children transition back into education or to gain accreditation for demonstrating independent living skills and personal development.

in playing musical instruments and had access to a relatively wide range of subjects and extra-curricular activities compared to many of the other children interviewed:

"I have education nine till three all week until Friday. After education, we sometimes do walks, we do caving ...stuff like that [...] The tutor comes to the house, he does like Maths and English, German, Science [...] I buy myself books, but we have gone to the library. I've got a library card" – Child subject to DoL order, 15.

Another child described the poor level of educational provision they were receiving, but spoke highly of the care workers' efforts to address the gaps:

"I'm not getting any education. I have to do education myself, with the staff. The local authority have said the home can provide education. [...] The local authority aren't allowing me to have qualifications, it's the home that are creating qualifications [...] Going above and beyond, going on [websites and online course]. You should be able to get these things for children on DoLs" – Child subject to DoL order, 17.

One child also spoke very positively about their education in an alternative provision setting since being placed under a DoL order. They had found this to be much more suitable for them than mainstream school and were keen to stay on there, but they explained that their local authority was planning to discontinue funding at the end of the school year and return them to a mainstream setting, despite them making clear that they didn't feel this was right for them, a view shared by their care team in the children's home.

A clear theme in the interview responses was the need for educational provision that is responsive to the individual child's needs and abilities. Most children also felt that, wherever possible, this should be provided in a shared learning environment with other young people, and at a site close to their accommodation.

4.7 Opportunities for peer interaction

"I think they should let kids see their friends. Not isolate kids" – Child subject to DoL order, 15.

All but four of the children who spoke to the office were living alone with their team of carers. Many children spoke of missing friends and wanting opportunities to interact in person with other young people:

"I would like to be able to see my friends again, but the DoLs says no [...] I still speak to them, but I have lost contact with loads of my mates because it's not the same as seeing them" - Child subject to DoL order, 15.

This was even more significant for those children who were also not in school, so were entirely dependent on activities arranged through their carers for social interaction.

"The isolation was worse because I didn't even have any other young people with me. [...] Even though I hated school, it would have been nice to carry on with it just for the social aspect and stuff, and social development skills. And like I was so far behind when I went to college that I've just had to, like, relearn myself social skills and how to interact with people"
- Child formerly subject to DoL order, 17.

Children's social workers and family members expressed concern about the impact of solo placements and home schooling on the child's social development and their ability to form relationships with peers later on in life:

"He is socially isolated. He is missing the years in school where you learn to be around other people and manage relationships [...] Getting into a community with others will be really hard for him. [...] He really doesn't seek the company of others unless they're meeting his needs. It's almost, it's almost accepted that that's the way it will be, and I think that is not good. [...] So, we're going to have this person that's growing into an adult and he's never had the opportunity to form a relationship" - Social worker.

However, professionals also referred to the safeguarding concerns associated with facilitating peer interaction, particularly for children who could exhibit challenging or violent behaviour, which could put them and others in their environment at risk. Children to whom this related were aware of the concerns but still felt the opportunity to interact with others was important to their development and that they should be supported with this. However, they felt that their restrictions made it more difficult.

"They might want you to socialise with people in the community but with 3:1 [supervision] people are going to go 'Woah what's going on here?!'" - Child on DoL order, 17.

However, a care company supporting one of these children did facilitate social interactions. The child was able to socialise with other young people, supported by carers, through weekly activities including mountain biking, kayaking, and climbing. He spoke very positively about this and mentioned friends he had made through activities, which gave him valuable peer interaction. A supporting professional of another child at risk of harmful behaviour towards themselves and others was seeking out safe online communities where the child could engage with other young people through a shared interest in playing computer games.

The ability to form relationships is crucial for children's development and well-being. Isolation from family, friends, and peers is a common experience for children on DoL orders but this can have a detrimental impact on their ability to integrate back into the community. It is possible to provide these opportunities for children with appropriate planning and support, and this should be part of a care package aimed at helping them to return to a more normal life as soon as possible.

4.8 Activities and daily routine

"I wake up, have breakfast, have a bath. Then sometimes we go out for walks. Sometimes we go out for drives. That's what it's like" – Child subject to DoL order, 16.

The Children's Home Regulations have a specific 'enjoyment and achievement' standard related to providing activities which meet children's needs.⁴⁴ The children interviewed by the Children's Commissioner's office were living in a range of settings, but ten were in children's homes which had undertaken to offer a programme of positive and therapeutic activities as well as supporting them to develop life skills and prepare for independence. Four children had personalised care packages within settings created for them, which were intended to meet their specific needs and support their development and progress, ideally to a less restrictive setting.

Most children had a weekly timetable, and this was often visible on the wall in the settings that were visited. Children said they were aware of their schedule and had input into this. However, while five

children were attending school or college and one child had an intensive home education programme, the other children interviewed seemed to have a large amount of unstructured time.

"Wake up, come down, have breakfast, go upstairs, make my bed, come down to do some AQAs^{ix} with a tutor, and then play an activity ... come back, go to bed..." – Child subject to DoL order, 15.

"So [the routine] is largely led by [name]. He wanders around, he does a lot of sitting. He gravitates towards his iPad quite a lot" - Social worker.

For two children with autism, parents and professionals expressed concerns about the lack of a 'sensory diet' provided through appropriate stimulation and activities. One child's parents reported an improvement once he had moved on from an Airbnb to a bespoke placement with a care package tailored to his needs.

Children who had moved to the setting from hospital felt they had more activities and distractions than when they were on a ward:

"[In hospital] I didn't do anything. I was just in a room... I did all the puzzles about 4 times"
- Child subject to DoL order, 16.

Three children also commented on how the routine was better than they had experienced in previous community settings, particularly unregistered placements:

"[Now] I have a routine and structure based on a person-centred approach [...] I can choose the daily activities that I want to do [...] And they're [care staff] always trying to get you involved in stuff, but in the appropriate way. So not telling a young person to 'do this, do that' "
– Child subject to DoL order, 17.

Professionals and young people talked about the importance of learning life skills to promote independence. When this was done in partnership with children, they found it a worthwhile and enjoyable experience. Several of the children were following an ASDAN programme to record their progress with skills such as cooking and household chores; others had co-produced an Independence

^{ix} AQA awards GCSE, A-Level and equivalent qualifications. It also has a Unit Award Scheme (UAS) aimed at supporting students back into learning at their own pace and recognising achievement.

Skills Plan with staff. In some cases, these activity plans were a substitute for children's education, although there was no indication that this was close to a full timetable or comparable to being at school or college.

Children particularly enjoyed having leisure activities with staff, and appreciated being taken out:

"The staff were actually really good at getting me out of the house. They were taking me on days out and spent a lot of money too taking me around here" – Child formerly subject to DoL order, 17.

"After education, we sometimes do like walks, we do like caving, stuff like that. And PlayStation." – Child subject to DoL order, 15.

"I do things [...] ninja warrior, bowling, arcade. I like trips out [...] If I have a choice, I choose shopping" – Child subject to DoL order, 14.

Overall, the quality of the activity programmes and frequency of trips out appeared to depend on the setting and the dedication of the care team. One provider had a structured timetable of activities, with a great deal of variety, including a range of outdoor sports with other children. However, in other settings, children, while enjoying spending time with staff, did not seem to have been encouraged to undertake any new activities, and their average day was not equivalent to what they would be expected to manage on their return to school or college, which was the long-term plan for them. These children may benefit from more activities aimed at addressing their individual needs and the reasons they have been deprived of their liberty, for example, personal and social development, managing their mental health, self-esteem, and understanding how to stay safe. A more structured schedule could help to ensure that their time under a DoL order is used in a positive way.

4.9 Mental health

"If you get to the root of someone's problem, and if you show you can find a way to help them, there's always a way. There's always a way without going down the dark path, there's always a way to help someone who's struggling ... there's always a way for

people like me. It's just got to take that one person to say 'I'm here for you'" – Child subject to DoL order, 15.

The mental health needs of the children who contributed to this research were significant. Many children had histories of adverse childhood experiences, including emotional, physical and sexual abuse, domestic violence, and parental drug and alcohol misuse. Children and their professionals described experiences of depression, anxiety, and difficulties regulating their emotions, which for some children had led to self-harm, suicide attempts, and alcohol and drug misuse. Five children are neurodiverse, which is known to increase the likelihood of experiencing a mental health problem.^{45,46} Four children had a risk of responding with violence towards others when heightened, and two children had a history of exhibiting inappropriate sexualised behaviour.

For around half of the children interviewed, mental health problems, and increased risk of harm to themselves or others, were the main reason a DoL order had been sought. Five children had been admitted to hospital with mental health difficulties and self-harm prior to discharge into the community under a DoL order, four of whom were admitted under the Mental Health Act. All of the children who moved on to a DoL from hospital had spent many months awaiting discharge to a suitable community placement, despite no longer meeting the criteria for detention.

For four of the children in the research, there was a suggestion by the child, their parent or social worker that the crisis point which triggered implementation of the DoL order may potentially have been averted if timely mental health support had been provided. In these cases, the child had presented to NHS services numerous times due to mental health concerns and had spent long periods on waiting lists for assessments or treatment, or had been discharged without further referral:

"From 10 plus I was showing signs of mental health, but they never took me seriously enough [...] If they would have got involved earlier and offered me more support and actually believed what I was going through, then it wouldn't have progressed to me having so many incidents, to me getting a hold of medication and doing that to get admitted into a ward and then to eventually my DoLs getting placed. [...] there's a lot of gaps where they could have done a lot more" – Child formerly subject to DoL order, 17.

"With CAMHS, it took for me to nearly end my life for them to actually come and see me, and even then that was the outreach team" - Child formerly subject to DoL order, 14.

Two parents of children with neurodiversity felt their concerns about their child's mental health were not taken seriously and were dismissed as autism related. They felt that a failure to listen to parents resulted in missed opportunities for earlier interventions and potentially better outcomes for children. As one parent said:

"There's one thing I would want these services [CYPMHS and social care] to do. It's actually to listen to parents when parents are saying that that there's a problem" - Parent of child awaiting discharge from hospital on a DoL order.

Five children whose DoL order had not been implemented primarily on the grounds of a mental health crisis also referred to difficulties with their mental health over a long period and spoke of not having their needs met due to long waiting times, lack of an appropriate service, or feeling that the service provided was not right for them.

"I was referred to CAMHS but they said the waiting list exceeds the time that I'm here [...] I've had plenty of assessments from them [CAMHS] but every time they just say the waiting list exceeds the time" – Child subject to DoL order, 15.

"I've had CAMHS involved in my life for as long as I can remember. And they always go too far back into my life and try to talk about things that I don't want to talk about" – Child formerly subject to DoL order, 17

The responses provided by children suggest that the experience of being deprived of liberty following a crisis or perceived increase in risk could in itself be detrimental to their mental health and wellbeing, due to the impact of severe restrictions and the move away from family, friends, schools and home communities into unfamiliar surroundings, to be cared for by strangers:

"When I moved in, I was very scared, upset all the time" – Child formerly subject to DoL order, 15.

"He is quite withdrawn now. Very sad [...] I speak to him three times a week on the phone and he

tells me, he says 'I'm feeling depressed' and I'm not surprised at all that he is feeling depressed because what human being wouldn't be in that situation? I think, considering the circumstances my son has been incredibly brave and resilient, but, you know, there's only so much a person can take before their spirit will start to break" – Parent of a child in hospital awaiting discharge on a DoL order.

"I'm getting help, but I don't feel it's doing much. I'm not very compliant, I don't know why. How can I say this now? I'm doing fine I think, but like, I'm very much on my breaking point" – Child subject to DoL order, 14.

However, for eight children, the time of stability under the DoL order had led to some improvements in their mental wellbeing, particularly when combined with positive therapeutic support.

Children described receiving a variety of mental health interventions while subject to the order, depending on their individual needs and situation. The children who were prescribed medication had oversight from a psychiatrist; others had been offered talking therapies with Children and Young People's Mental Health Services (CYPMHS) and specialist therapeutic support from other services, including within their education provision for some children. Six children had therapy in their setting, which could be regular sessions from a visiting psychotherapist, art or music therapy, or support provided by staff through therapeutic activities.

Two children spoke positively about these therapeutic interventions, which they had found beneficial for supporting their mental health and initiating behaviour change which enabled an easing of restrictions.

"Yeah, quite useful. I would normally talk about feelings, how the brain works in a certain way, stuff like that" – Child subject to DoL order, 15.

"[The therapist] has some really cool cards. They're like feelings cards. And they have different pictures on them. Then you choose. We talk, we do stuff ... every day we just try to draw emotions" – Child subject to DoL order, 16.

However, children's satisfaction with mental health provision while under the DoL order was variable. Their responses suggest that the provision was at times inadequate or inappropriate.

"I was having EMDR and trauma therapy, and the way it was with that type of therapist, it was just we didn't connect too well and then it brought up too much and unlocked so much that I was like relapsing again. So it didn't really help me, it just made me a bit worse [...] they kept saying just carry on with it, just like, stick it though basically, until it got to the point where I got something from her house and self-harmed with it and then that's when they were like, yeah, 'No, you're not going anymore'. So, I voiced it so much, but I didn't feel like they cared, then one day I'd just had enough and I just done that, and it took an incident for them to listen to me. I wasn't listened to before that" - Child formerly subject to DoL order, 17

"I'm always getting put on waiting lists for different therapy and because it's understaffed, I was waiting months for appointments sometimes and like my mental health nurse ... psychiatrist I think - the one that prescribes medication - I think she's left or leaving and so I've had to change and there's no one there available" - Child formerly subject to DoL order, 17.

"I feel like more could have been done instead of just topping up my medication" - Child formerly subject to DoL order, 14.

The experiences of the children in this research illustrate the intersectionality between neurodiversity, mental health, and trauma, and the importance of addressing children's mental health needs as early as possible, with children themselves included in discussions about what interventions could help them. For some children, this could prevent escalation into crisis and the need for restrictions on their liberty.

Sadly, many of the children who had come into care for their own protection felt their experiences in the care system had been detrimental to their mental health, and for some this included their time under the DoL order. However, for others, where the DoL order had been combined with a suitable, stable placement and care team, they had been able to make positive progress with their overall mental wellbeing, despite the restrictions in place for them.

4.10 Physical health

"I can cook anything you could possibly desire. I love cooking" - Child subject to DoL order, 15.

The children who participated in this research were all physically well and had access to healthcare when they needed it. They said that the food provision in their current placements was good. Children had access to fruit and vegetables, many had some control over meal choices, and some had the opportunity to participate in meal preparation, which they enjoyed. For five children, nutrition had been a concern in the past, including during their time on the DoL order. The parent of one child described the impact on them of being housed in an Airbnb for over a year, during which time his diet consisted of microwave meals due to lack of any other cooking facilities. Additionally, he had no access to safe on-site outdoor space, with care staff reluctant to facilitate trips outside the property due to concerns about managing his behaviour. During visits, his parents became increasingly concerned about how unwell he looked:

"[He] started putting on a lot of weight, had really bad acne, looked really pale, really ill. He looked depressed to us" – Parent of child subject to a DoL order.

The parent of a child who had been in a Tier 4 hospital setting for over a year awaiting discharge on a DoL order had similar concerns:

"He's eating hot dogs and noodles. And I'm glad that he's eating, but he's not eating anything nutritious. And he's eating a lot of sugar, a lot of sweets [...] and I don't think he gets a lot of sunlight ever. I've got huge concerns about his physical health. [...] he looks very pale when I see him" – Parent.

Two other children had had episodes of food refusal after being placed on a DoL order:

"She struggled to eat whilst away from home due to homesickness and [...] [was] being provided with nutritional drinks" – Solicitor of child subject to a DoL order.

"The first two weeks I was here [current placement under DoL order] I starved myself to death, I was in hospital. I was just refusing to eat. It just happens sometimes, I don't know what triggers it, but it does just happen. I think it's just when, with what's going on, I just don't eat" - Child subject to DoL order, 15.

Another child described how they would have liked some support with self-care for good health:

"I just think because I got into a really unhealthy pattern of eating, like more information around physical health and how to keep your body healthy and stuff. Because I didn't really get much of that..." - Child formerly subject to DoL order, 17.

Children were clear that they had been able to access healthcare for any physical illnesses or injuries, and carers supported them with pharmacy services and medication where required. Some children felt that staff in previous placements had shown less interest in their physical health, compared to their current team, which again points to the importance of having dedicated professionals supporting children, who are willing to listen to their needs and ensure these are addressed.

4.11 Family

"If you have to move me again, please make it closer to my family so it's easier for me to see them" – Child subject to DoL order, 15.

When children spoke about people who were important in their lives, they all mentioned family, including parents, grandparents and siblings. They were often frustrated that contact with their family was determined by the DoL order, as well as contact arrangements in care orders, controlled by their social workers and local authority managers. Children who did not have unsupervised access to a personal phone on the DoL order had scheduled calls with family members, while those with mobile phone access had greater control over the frequency and length of calls. In-person family contact varied between children and was often influenced by geographical distance and travel costs for their family. This was particularly the case for the children placed outside their local authority area, some over 100 miles from home, in areas difficult to reach by public transport.

Nine children spoke particularly strongly about the importance of their family and how much they missed them:

"When I'm older I'd like to live with mum because I really miss her and it's really hard for me. Sometimes I cry about it. I find it really hard to live apart from her. I find it hard every day and sometimes I cry, sometimes I get upset but sometimes I get angry because I miss Mum and it's really hard for me" – Child subject to DoL order, 16.

One parent said:

"On his birthday last year all our family managed to go there and we had a cake and he blew his candles out and it was really emotional...Because he said 'I'm gonna tell you what I've wished for', and he just said 'I wish that I could come home', and that's all he keeps saying. 'I just want my family', that's all he ever says" - Parent.

For three children, their professionals described how escalations in challenging behaviors were often linked to missing family or becoming more emotionally dysregulated following contact.

"The notes sent out from the placement with the reasons they medicate her and why or when they restrain her ... a lot of that relates to if [child] is missing mum or she's ringing mum and she's unable to get hold of mum, then she reacts really poorly, and the placement try and manage that" - Solicitor of child subject to DoL order.

Children also mentioned the impact of separation on their mental wellbeing. One child recognised that this distress could be exhibited in behaviours, which were then seen as challenging:

"They'll take kids away from their family hoping they'll get better and fix their behaviours, but it'll only make them worse. [...]Cos you're taking the kid away from their family, which is breaking them and it is going to make them want to act out more" - Child subject to DoL order, 14.

All children wanted placements close to home. The parents who were interviewed also explained how they wanted to be involved in their child's life, to be able to spend time with them, to be included in making decisions that impacted on them, and to be given the opportunity to advocate for their best interests. Having their child placed far from home was a source of distress for parents, both for themselves and the impact they noticed on their child. One family moved house to be closer to where their child had been placed out of area, but the child was then moved again when the placement served notice.

Parents and children both described how supervision could cause discomfort during family contact time:

"And then when we went to our visits, it was very strange indeed and didn't feel like a proper family visit because you had three people constantly staring at you the whole time and [he] was

sat at this little table. It was just a minute little picnic table in this huge room, it was just awful" - Parent of child subject to DoL order.

One child expressed their view that parental input should be valued and that their opinions should be sought and listened to:

"My mother shares parental responsibility but she has no say in proceedings at this stage and neither do I. But if you've got someone that you love and trust and that relationship is there then that should be implemented" - Child subject to DoL order, 17.

The social worker of a child with autism, who is in care with parental consent, made a similar point:

"So, the only consistent people have been his parents who have advocated on his behalf and have been made to feel like they are a problem. Because they could see what I couldn't see initially. And that is a certain level of disservice [and] lack of care" - Social worker.

A solicitor commented on the fact that parents do not automatically get represented during DoL proceedings, which they felt was a "handicap for parents" and should be addressed to better enable decisions to be made in the child's best interests.

The importance of family relationships was a very strong theme across the interviews. Children felt that being in care and under a DoL order should not be a barrier to maintaining positive relationships in their life. These are crucial both to children's wellbeing while deprived of their liberty, and to their long-term ability to thrive and have the network of support they need to live safely without restrictions in the future.

4.12 System level challenges

4.12.1 Joint working

Children who have experienced a deprivation of liberty require input from multiple sectors including health, social care and education, with support provided by both public and private providers where necessary. Disagreements over care and funding responsibilities, fragmented services, silo working,

limited resources, finite placements, and the power of private providers to refuse a child a placement or to serve them notice were cited by professionals as barriers to meeting the needs of the children interviewed for this research. They felt that better joint working between health, social care and education, with children at the heart of decision making, would improve care provision.

"It would make sense for NHS and social care to be a team. We used to work together, and in some local authorities they may still do. I think it would work better if we were in the same team. Now it is us and them" - Social worker of a child awaiting discharge from hospital on a DoL order.

"I attended the professionals meeting – it's like swimming through treacle. No one seems to properly talk to each other. No one seems to take responsibility. [...] [for] all the services, there's a level of disconnect, you don't know what somebody else is doing or whether they're doing it" - Solicitor of a child subject to DoL order.

4.12.2 Funding

Eight children spoke about how additional support from services, such as social care, CYPMHS, or other community services, such as mentoring, could have benefited them. Having more funding for resources and interventions at an earlier stage could potentially reduce the risk of children needing to be deprived of their liberty. Likewise, implementing more intensive and personalised support packages while children are subject to a DoL order could reduce the period for which restrictions need to be in place.

"I definitely think they should put more funding into the NHS because there's nothing for mental health services. When I was going there, I'm always getting put on a waiting list for different therapies and, because they were so under-staffed, I was waiting months for appointments sometimes" - Child formerly subject to DoL order, 17.

"Probably social workers need more help and support, because we're running low on that now aren't we?" – Child formerly subject to DoL order, 17.

This was echoed by the parents and professionals interviewed:

"In the Children Act, it talks about resources not being a factor for a child to have their needs met. But that is actually the case with the local authority, resources are a factor, and it does"

prevent [meeting] the need” - Social worker of a child subject to DoL order.

“The practical help you can get [...]is very limited. So again, that kind of level of support you need is just not there” – Parent of child subject to DoL order.

4.12.3 Placement sufficiency

Twelve of the children who were interviewed had experienced multiple moves, or prolonged stays in hospital or unsuitable unregistered accommodation, because their local authority had been unable to find a registered placement that could meet their needs and was willing to accept them. For three of these children, the only available solution to ensure they had suitable accommodation was for the local authority to rent or buy a property and commission a private care agency to deliver a personalised package of care. The shortage of suitable local placements was also the reason that many children had been moved far from home, friends and family. While for five children this was an intentional decision to protect them from potential harm in their own community, for most children it would have been better for them to have been placed within a reasonable distance of their family, social network, school, and key professionals.

One social worker expressed their frustration at trying to find a placement for a child currently placed in a Tier 4 setting and awaiting discharge into the community under a DoL order:

“[The setting] want him out, and we want him out, but there is nowhere for him. I’ve talked to providers across the UK but there is nowhere for him. Providers come back to us saying they are worried he is a danger to others; they are worried about staffing; worried about the medication he is on; about the DOL – they don’t want to make the adaptations needed to keep him safe” - Social worker.

The professionals interviewed also spoke about the need for specialist settings for children with both health and social care needs, including those where restrictions can be put in place to keep children safe:

“In the context of what we have in this country in particular, you’ve got very limited choices of what happens when a young person is in a situation like this. You’ve got the Mental Health Act

and we've seen lots of young people [...] sectioned and then it makes it even more difficult [...] I wish there were other options for young people like her, especially when there's things like health and mental health issues because the only option we've got, really, is to make an application for a deprivation of liberty” – Solicitor.

4.12.4 Transition

Most of the children in this study expressed uncertainty about their future, including where they would be living, their education, and when the conditions in their DoL order would come to an end.

Six of the children have needs which suggest they will require ongoing support from adult services. One of these children expressed particular anxiety about what might happen when they turn 18.

“I’ve been looking up about when I’m eighteen, about what’s gonna happen, because I’m very worried...” – Child subject to DoL order, 17.

One professional for a child who will need adult social care support felt that failure to facilitate an effective transition with continued provision of the required support could mean that his progress while cared for under the DoL order could be lost:

“The trouble now is that the clock is against him because he's coming up to 17, and then there's a process where we then transition to Adults [Social Care]. So, this is also where we're going to fall down [...] It's almost going to completely undermine everything that there's a transition from children to adults at 17, where all the support that he's been getting, it's gonna fall away because he becomes an adult [...] Clearly the system's wrong. And all the planning and everything that's gone into him has been a complete waste of time. Because he hasn't got any permanency, he hasn't got any stability because we're working to move him on from Children's Services to Adults. So, all that work and those relationships he would have built up is now going to regress” - Social worker.

Some of the children will not meet the threshold for adult social care services but may continue to need support with their mental health, housing and other areas of life. While they will be entitled to services

as care leavers, the level of support will be reduced significantly, which could impact their future wellbeing, particularly if the reasons behind their complex needs and trauma have not been addressed.

Tackling the systemic challenges that affect the children included in this research will require a shift in national policy and practice to enable joint commissioning and delivery of services across systems. There is a need for more funding for health and social care services to develop new models of care that provide for children with complex needs. The long-term impact is likely to be more cost-effective and, most importantly, it will provide a better service for the children who need it.

There are examples of local authorities, children's homes and care providers endeavouring to deliver improved models of care to at-risk looked after children with complex needs. The Children's Commissioner's office heard from the City of York Council about its Building Brighter Futures model, and from Somerset Council about their Homes and Horizons partnership.^{47,48} Members of the research team visited St Christopher's Safe Steps home in West London to learn about their care approach for girls at risk of child sexual exploitation or other serious community threats.⁴⁹ Multi-agency partnerships, implementation of child-centred therapeutic interventions, an emphasis on relational care, and an early shared understanding and management of a child's risk between agencies, children, and their families are examples of approaches used. Though many new models are yet to be evaluated, it is hoped that they will lead to improved outcomes for children and reduce the number of children deprived of their liberty.

5. Impact and effectiveness of deprivation of liberty orders

Deprivation of liberty orders authorise severe measures that are deemed necessary to protect children from harm when it appears that no other option is available. However, for many of the children who were interviewed for this research, the experience of separation from family and friends, changes in caregivers, isolation, restrictions and restraints experienced under the DoL order were traumatising events in themselves. Inappropriate implementation of DoL orders risks exposing vulnerable children to further adversity, with long term impacts on their health and development. Time spent under the DoL order was, for some, a loss of part of their childhood; a time when they should have been learning, playing, developing friendships and safely exploring the world around them.

"It has impacted on my social skills. I struggled to make friends. I struggled speaking to new people. I struggle in large crowds ... and I get a lot of PTSD and stuff from all of it" - Child formerly subject to DoL order, 14.

The majority of the children interviewed recognised that they had needed support but wish this could have been provided in a different way.

"I want to try and flourish in my life and regulate my emotion and my behaviours and get the correct support. So these young people are wanting the correct support. They're not wanting to be on this [DoL order], they want to be normal people" - Child subject to DoL order, 17.

The experiences shared in this research suggest that, for children whose risk stems largely from trauma and instability, the DoL order, while keeping them safe in the short-term, does not necessarily address their core vulnerabilities, unless it is combined with the right care and support. For these children, providing meaningful therapeutic intervention an earlier stage, before a deprivation of liberty is considered, could offer an alternative outcome.

For a small number of children in this study, their history and needs suggest that some restrictions on their freedom may be necessary over a sustained period, in order to safeguard their wellbeing. The professional interviewees who were supporting children with autism, trauma and associated emotional dysregulation that meant they were at risk of harming themselves or others felt that the power to

impose restrictions through a DoL order was a valuable tool. However, they felt this should be properly implemented by qualified staff in appropriate settings, closely regulated and regularly reviewed.

“I’d see the deprivation of liberty being necessary [...] particularly around disabled children, I can’t think of any negatives. Because it’s always reviewed. I think the only restriction would be for that person to be around somebody that is not invested in their health and development. [...] and you just need people that are flexible and creative. But I do think it’s necessary. I think his life would be worse off without it” - Social worker of child with DoL order.

The professionals working with children at risk of exploitation due to their history of trauma or other vulnerabilities noted that the DoL order had only been put in place because other measures, including police alerts, taxis to school, and placement moves, had failed to keep them safe, whereas the restrictions in the DoL order had enabled them to do this and had given children the space to focus on themselves and their needs. However, they acknowledged that the effectiveness of the DoL order depends on how it is implemented, the expertise of professionals, and on the individual child:

“You never know how a young person’s gonna react to it all, do you? They can either really thrive in it, or it can be the worst thing for them ever, because that real tight control can be the last thing that they need. Whereas [child] had a really good response [...] she said to me a few times that, you know, the DoL was her saving grace. And she says that she felt like it really helped her, and she wouldn’t have been able to mature without it ...to be able to take herself away from that toxic friendship group and that toxic environment” – Social worker of a child previously subject to DoL order.

In one of the key examples where a DoL order appears to have worked well, according to both the child and their professionals, the social worker had prior experience of the DoL process and a longstanding relationship with the child. In this case, the positive implementation of the DoL order was also attributed by the social worker to good joint-working and communication between the child’s school, the local authority Virtual School, health services, the care placement staff, and key family members. They had all been supportive of the DoL order and committed to ensuring it was used to help the child move away from their risks on to a more positive path, which is ultimately what happened. In this case, the child also recognised that the DoL had helped them, albeit they reflected that it was a very difficult experience.

"It was hard, but it was good in the end... like if I hadn't been on that I'd have probably still been missing now, or in another messed up relationship, or probably in a secure unit. So, if it weren't for that I probably wouldn't have got a grip on myself and been like 'Why am I doing this to myself?'" – Child formerly subject to DoL order, 17.

Nevertheless, all of the children formerly on a DoL order, even those who recognised it had been positive in some respects, made it clear that they would have preferred it never to have been put in place.

"It's made me more independent, more responsible, shown me a different way to live, I guess as time goes by you start to realise that maybe there's a better way to be in life. Being cut off from my friends and my family really gave me time to reflect on myself, but at the same time it made me feel alone, isolated away from everyone I cared about" – Child formerly subject to DoL order, 17.

"When I came off it, it was like the best thing. It was like a breath of fresh air" – Child formerly subject to DoL order, 17.

One child expressed the view that a DoL order was sometimes used as a reaction to professionals' perception of their risk, but that this was based on periods of crisis rather than a full understanding of their needs and how they could be supported without an order in place.

"So, before we even start talking about the DoLs ... not just the social worker, but the care home itself should take the time to actually get to know me ... a lot more than what they did ... because they focus too much on the paperwork. My paperwork said that I was really, really high risk ... but when they met me, it's only when I go into them moods ... So, if they would have known that for me, then I don't think I would have been put on it necessarily. I would have just been able to do what they're doing now and have it as legal but not a DoL" – Child formerly subject to DoL order, 17.

All of the children who had formerly been on a DoL order had continued to live with some restrictions after it was lifted but said they felt more comfortable knowing that an order was not in place. This had enabled them to build more trusting relationships with staff and to comply with restrictions based on an understanding and acceptance of why they were needed, with more of a say in the specifics of any conditions and how they were enforced.

“Since coming off the DoL, because it's not the full legal document, they can actually listen to my thoughts and feelings without everybody getting involved, and it could just be like small, subtle changes in the home and stuff. It just gives you that greater flexibility and responsiveness to how you are on any given day, or as you progress, that's reflected” - Child formerly subject to DoL order, 17.

When deprivation of liberty is deemed necessary, the priority should be to address the behaviours or circumstances that led to the restrictions being imposed. Keeping children safe from immediate harm is only part of the requirement; enabling them to live freely without risk of future harm should be the ultimate goal. The interventions required to enable a reduction in restrictions will vary between children; for example, some children require mental health support and therapies to help regulate emotions, while children vulnerable to exploitation need interventions to support them to understand and address this risk, all of which can take time.

In this research, there were examples of where it does not appear the DoL order had led to children being more able to keep themselves safe. This was the case with the children who had profound mental health difficulties, self-harm and dysregulated behaviour. Although these behaviours had decreased after they moved to a more suitable setting, their risk was still such that the DoL order had continued to be in place, in some cases for two years or longer. It is difficult to envision these children being able to manage without professional supervision in the long term if their mental health difficulties persist in the same way. This is also the case for the children in the study who pose a risk to themselves and others due to challenging and at times violent or sexualised behaviour. It is not clear how they will be able to manage their risk as they progress into adulthood, when 4:1 support is unlikely to be provided.

For those children at risk of exploitation, there was a concern that placing them under a DoL order had not always led to increased insight by the child of the risks or harm they had been exposed to or enhanced their ability to independently keep themselves safe in the future. Three of the children did not appear to accept they had been at risk and resented the DoL order and the professionals who had been involved in implementing it.

“I was safe. My views haven't been listened to because I was safe” – Child subject to DoL order, 16.

Two children spoke about how they felt the tools, support, information and opportunity they needed to reduce the concerns of professionals and live safely without a DoL order hadn't been provided.

"I feel like my social workers are like, 'You're not ready to go back to the city' [...] And it's like, right, you guys actually haven't given me the chance to go back to a city [...] you're making me do all this work [...] but you're not actually, like, letting go of me and everyone's like, 'Yeah, but we just need to keep you longer [...] for a bit. We need you to improve on some stuff'. But I feel like, how do you know if I am ready to go back to the city or not if you haven't actually put me in the city?" – Child subject to DoL order, 14.

Frustration was expressed by children who felt that, even if they were willing to make changes, the fact that there was not a clear pathway out of their DoL order, or the guidance and support they needed to address specific behaviours and risk, meant they faced confusion and uncertainty.

"The home and the children should be aware of what the progress should be to get off the DoL order because nobody's ever told me what to do to get off my DoL order. They's just said 'Reduce your risk, reduce your risk'. Nobody told me how to reduce my risk [...] they should tell you the way because more than likely you're either gonna go into the real wide world when you're 18 and mess up, and that's setting you up to fail, or more things is going to happen, maybe sectioned, arrested, going to prison, whatever" – Child subject to DoL order, 17.

Four children explained how they wanted a more progressive approach, with a step by step plan to move out of restrictions, professionals with the knowledge and skills to help them with this, and clear information throughout the process.

"[The deprivation of liberty order] should be there to safeguard you in the correct way to make you change for the future. That definitely isn't being put in place if: 1. the person doesn't know what they need to do to change [...]; 2. the carers don't know what it is and; 3. there's no clear instruction or requirement for jurisdiction for these orders to be put in place" – Child subject to DoL order, 17.

Of the children interviewed, four described how they had been given a clear plan about the changes in behaviour required for their restrictions to be lifted, which they had found helpful. Two of these children had been able to come off the DoL order in less than six months. Children and professionals suggested

that engagement with plans was easier if they had been co-produced and there was a relationship of trust which empowered children to demonstrate their ability to keep themselves safe and comply with restrictions even as they were reduced. Those who were given more agency to influence the restrictions saw more benefit than those children who felt they were out of their control.

"I didn't understand at the time, but I do now. 'Cos I was still like a messed-up kid, but in the end ... like, I had my phone taken off me for the first 2 weeks, but when it went back to court, they were like, 'She can have her phone cos she's been good'. And with going out...at first they'd only let me go out for 15 minutes, and then they'd up it to like, 25 minutes, and it would go to 30 minutes, and then it'd come up to an hour [...] They could lock the doors, they could monitor my money, they had to go out with me wherever I went ... it was 2:1. But after time they went down to 1:1. They even started letting me out of the house. They'd give me a fiver to buy things for the house, even when I was still on the DoL order, to see if they could trust me, to see if I ran away with the money, but I never did, I always came back" - Child formerly subject to DoL order, 17.

6. Conclusion

The experiences shared by children in this report illustrate the impact of living with a deprivation of liberty order. It is clear that, before this measure is considered, children with complex situations and trauma should receive targeted, individualised support and services, at an early stage, to prevent an escalation of risk wherever possible.

All children who are looked after in the care system should have safe and supportive homes. If this cannot be with kinship or foster carers, it must be in registered children's homes with a nurturing environment, where children can feel safe, loved, and empowered to access the help they need to address their mental health difficulties, risks, and trauma. It should never be the case that a child is deprived of their liberty due to a lack of appropriate provision, or that a deprivation of liberty order is used to enable local authorities to place children in accommodation that would otherwise be unsafe. Too many children have negative experiences of inadequate or illegal children's homes before or during their time on a deprivation of liberty order, exposing them to further trauma - the opposite of what they need to recover and thrive.

Sadly, there are some children whose difficulties and circumstances mean there is a need for powers to restrict liberty outside secure settings, for example those who are at high risk of harm but do not meet the criteria for a secure children's home, or for whom a space in a secure home or other safe setting is not available. However, the effect this can have on children, as described first-hand in this report, highlights the importance of providing transparency and accountability through a clear legal framework, with statutory guidance on how their care and accommodation needs should be addressed and reviewed. The process should give agency to the children involved, with collaborative working and provision of specialist support to address their needs and trauma, so that restrictions can be safely reduced at the earliest opportunity.

Careful consideration of the experiences described by the children who participated in this research, both negative and positive, as well as their ideas about what they would have wanted, is vital for informing the work on improving provision for children in similar circumstances, whether a deprivation of liberty is being considered or has already been put in place. They exist within a health and social care system which is in urgent need of investment and reform, and addressing their needs should form an integral part of the wider plans for children's social care going forwards.

7. Recommendations

The following goals are based on the qualitative data and key themes identified in the interviews with children, and the perspectives of their parents and professionals. The Children's Commissioner's Office has made recommendations to support the achievement of these goals.

Goal 1: Children have the support and stability they need to prevent escalation of risk and deprivation of liberty wherever possible

"I think often you could make a real difference to lots of young people's lives and prevent a lot of crisis points by putting support in earlier" - Child formerly on DoL order, 17.

What children want: The goal should always be to avoid a deprivation of liberty wherever possible; this requires improved early identification of need and appropriate early intervention. The information and views shared by the children who spoke to the Children's Commissioner's office suggests they would have benefited from more positive support from social care, health and other support services earlier, whether this was when they were living with family or after they entered care. For some children, neglect or abuse meant it would not have been possible for them to stay at home. However, they were clear that a better experience after moving into care, and the right placement and support from the start, could potentially have prevented the escalation in their behaviour which ultimately led to a deprivation of liberty order being sought.

Recommendations:

- Local authorities should have sufficient funding for children's social care at all stages, from Early Help onwards, with a Children's Social Care Funding Formula that is ring-fenced by the Department for Education.
- Children and families should have a clear entitlement to intensive packages of support where children are at risk of entering the care system. This should include short breaks, shared care

arrangements, and support from wider family while intensive, multi-agency work is carried out to help carers manage behaviours that challenge and enable children to remain at home in the long-term if possible.

- Support packages for children should be co-produced and joint-funded by Children's Social Care and the Integrated Care Board if mental health concerns are a key factor.
- There should be specialist multi-agency safeguarding teams in every local authority to address children at risk of extrafamilial harms, including representatives from the police, schools, and Children and Young People's Mental Health Services (CYPMHS).
- Every local authority should have a strategy to prevent placement breakdowns for looked after children wherever possible. This could include multi-agency meetings to address challenges and concerns, and intensive packages of support for children within their kinship, foster care or residential placements where necessary.

Goal 2: Children are involved and heard at all stages of intervention to address the root causes of their behaviour

"Instead of just shoving them on DoLs straight away, try and speak with them, just sit down with them and be like 'What can we do to make this better?' Because I never got that" – Child on DoL order, 15.

What children want: Children spoke with insight about the difficulties they'd experienced up to and beyond the point where they were deprived of their liberty, which may have included emotional dysregulation, self-harm, aggression, absconding, and risk-taking behaviours. Most children acknowledged that their families, carers and professionals had not been able to manage them safely, but often felt this was because the root causes of their behaviours had not been fully addressed and those around them had not understood what they were trying to express. The majority of children said

they had not been involved in discussions about the possibility of a deprivation of liberty order being sought, or how this could be avoided, and those who had shared their views felt that this had little impact on the decisions made about them. Despite their entitlement to advocacy, few children had received this.

Recommendations:

- Before a deprivation of liberty is approved, local authorities should demonstrate to the judge that extensive work has been done with the child and key agencies to address the concerns through appropriate support and interventions, and that clear information has been provided to the child about expectations and the possibility of an order being sought if their risk does not reduce.
- Where a deprivation of liberty is authorised, the conditions should include a plan for meeting the child's specific needs through intensive intervention and work aimed at helping them to be safe in the long-term. This plan should be co-produced by health and social care if appropriate, and could include mental health support, mood and behaviour management, work on addressing risks of exploitation, educational support, and any other specialist therapeutic intervention that is required.
- Independent advocacy should be provided for all children where a deprivation of liberty order is being considered or is in place. Children who are non-verbal or have additional communication needs should have access to a specialist non-instructed advocate.
- All plans and orders should be shared with children (and their parents or carers where appropriate) and explained in a way that they can understand, with an advocate present where the child wants this.

Goal 3: Every looked after child lives in quality home that meets all of their needs

"And she [local authority staff] says you're not going to find anywhere. There is nowhere out there for someone of his needs [...] So there was no alternative, and we just had to wait for the worst to come" - Parent of child on DoL order.

What children want: Most children who spoke to the Children's Commissioner's office would have chosen to stay with their family. However, where this is not possible, they want excellent children's homes or foster placements, close to home, which can provide stability, meet their needs in all areas, and keep them safe. They described the difference that being in the right home could make to their overall wellbeing, their ability to focus on their recovery, and their hopes for future.

Recommendations:

- Local authorities should receive increased Department for Education Children's Social Care capital building funding to expand their in-house provision of children's homes. This should include therapeutic secure children's homes for the small number of children who need them, but there should be a focus on creating alternative therapeutic settings which can cater to children with complex needs who are at risk of being deprived of their liberty.
- As part of a national sufficiency plan, the Department for Education should support local authorities to put in place appropriate provision for children with complex needs in their area to ensure that no child is deprived of their liberty unnecessarily due to a lack of suitable placements and that, in the small number of cases where this is required for the child's safety, they are placed in appropriate registered settings.
- The national plan should include a central system for finding and allocating children's home spaces when a local authority has been unable to secure appropriate provision for a child, including powers to direct providers to offer a place where necessary.

- Local authority fostering recruitment and training plans should ensure there are sufficient specialist foster carers locally who can provide a safe home for children with complex needs and risk, where this is the most appropriate setting for them.
- Children with a deprivation of liberty authorisation – like all looked after children - should receive care in a registered setting. In emergency situations where this is not possible, this should be reported to Ofsted within 24 hours. The registration process should begin immediately and be fast-tracked, with updates at each review. This should be set out in statutory guidance.
- The Department for Education should add a new field to its annual looked after child census to record whether a child is or has been deprived of liberty. The information should include the child's location, type of setting, the reasons for restrictions and how long they last.

Goal 4: Children's social care and health work jointly to support children and provide specialist care settings where needed

"We're [health and social care] looking at it from different angles, and sometimes there is disagreement. We work together on the ground. We talk. It's the politics above that causes the issues" - Social worker of child awaiting community placement with DoL order.

What children want: While the children who spoke to the Children's Commissioner's office did not have detailed knowledge of local authority and NHS structures, they wanted better planning for their care and support and fewer delays in getting the right help. They also felt that children in their situation should be seen and heard by government and service providers, so that their needs can be recognised and addressed.

Recommendations:

- Health and social care should work together to ensure there are sufficient jointly funded specialist placements locally for children with complex mental health needs, including neurodevelopmental disorders and trauma. To support this, the Department of Health and Social Care and Department for Education should agree budgets for a new model of jointly commissioned children's homes, with multidisciplinary teams combining health and social care, paid for through an expanded Better Care Fund. New models should be subject to monitoring and evaluation, and adapted as necessary, with learning shared to inform good practice across all regions.
- Residential provisions should be adaptable to children, so they are not forced to move when their support requirements and restrictions change. This may include moving in and out of solo provision within the same children's home site and stepping up or down interventions and supervision in line with children's needs. There should be a clear process for transitioning to less intensive placements, including a period with a crossover of support if required.

Goal 5: A new legal framework provides a mechanism for restrictions on children's liberty other than in a secure setting, supported by statutory guidance

"I think there should be more oversight of it [...] it wasn't implemented in the most appropriate or correct way for me and it probably isn't for other young people" – Child on DoL order, 17.

What children want: While children do not want to be deprived of their liberty in any setting, and this should always be a last resort, some of the children who spoke to the Children's Commissioner's office recognised that the conditions in the deprivation of liberty order had been necessary for their safety. However, they wanted these to be implemented in the least restrictive way possible, to be time-limited, and for there to be a reasonable pathway out of the order. Children also wanted clear information, to be involved throughout the process, and for positive behaviour to be recognised and rewarded.

Recommendations:

- All children deprived of their liberty should benefit from a statutory framework guaranteeing their rights and setting out the responsibilities of others to promote their welfare. To achieve this, the Children Act 1989 should be amended to provide for children being deprived of their liberty in an Ofsted registered home that is not a secure children's home (as defined under s25 of the Act).
- The statutory framework should provide clear guidance for local authorities on how and when to apply for a deprivation of liberty authorisation, including in cases where children are accommodated under section 20 or where they are placed across UK borders.
- This statutory framework should make it clear that:
 - Deprivation of liberty should only be authorised when it is necessary for children's safety and welfare and not because of a shortage of appropriate accommodation. There should be guidance on what types of restrictions should prompt the necessity to apply for authorisation.
 - There should be judicial oversight for any deprivation of liberty and any authorisation must be reviewed every 3 months. Reviews should always include discussions with children about their progress and how outstanding concerns can be reduced, with restrictions amended as appropriate.
 - The child should automatically be a party to any deprivation of liberty proceedings. The children's guardian must meet the child before an application is made, in all but the most exceptional circumstances, to ensure that their wishes and views are represented.
 - Children should have the opportunity to share their views with the judge as part of the deprivation of liberty process and should be supported to do so in a way that is comfortable for them.
 - Non means-tested legal aid must apply to deprivation of liberty applications, as it does for applications for care orders.

- The Secretary of State and Ofsted must be notified of any deprivation of liberty application where the child is not in a registered home.
- Local Authorities must report all children who are deprived of their liberty, and where they are living, to Ofsted.
- Children deprived of their liberty should have access to advocacy, including non-instructed advocacy as needed (as stated in goal 2 above).
- The interaction with other legislation, such as the Mental Capacity Act or Liberty Protection Safeguards, should be well defined so that there is no confusion.

Goal 6: All looked after children are cared for by dedicated professionals who provide stability and love

“The placement was brilliant [...] whether on her DoL, even prior to her DoL, they had a lot of challenges where, in my experience, other placements have handed in notice, but they fought through, they worked with her” - Social worker of child formerly on DoL order.

What children want: Children were very aware of the difference between members of staff who were fully invested in them and those who were not. They were also able to recognise staff who had the skills and experience to meet their needs and those who were not equipped to do so. Children want their carers and professionals to stick with them, to offer consistent relationships, and to show a genuine commitment to their welfare, their rights and their future. Children spoke passionately about the importance of feeling loved, valued and truly cared for, and this was often the most significant factor in their experience of care and the progress they were able to make while deprived of their liberty.

Recommendations:

- Wherever possible, children should experience consistency in the social worker and care staff supporting them, to enable them to develop trusted relationships. To help achieve this, the
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government should set out an ambitious Children's Social Care workforce plan for the recruitment and training of highly skilled, trauma-informed frontline social work and residential care professionals, who have the support, training and capacity to work with children over the long-term.

- Social workers should have enough time to build relationships with children as a trusted adult, beyond their essential responsibilities. The ability to meet the wider needs of children should be discussed and reviewed as part of their professional development plan and case review meetings.
- Each local authority should have a lead professional with expertise in deprivation of liberty (such as a senior manager or solicitor) who is available to provide advice and support to social workers and carers.
- Children's homes should provide data on restraints to Ofsted during inspections and through annual data returns, which should be reviewed and published by Ofsted in aggregate statistics.

Goal 7: Children deprived of their liberty have their educational needs fully met

"I don't think it's fair they're making us miss out on our education because they don't know where to put us" – Child on DoL order, 15.

What children want: Children who spoke to the Children's Commissioner's office were aware of the impact of missing out on education, both prior to their deprivation of liberty order and while it was in place. Those who remained at school described feeling awkward when constant supervision from carers was prescribed under the order. The minority of children who had a positive educational experience recognised the value of this and felt it illustrated professionals' commitment to their development and future. Children wanted education to include more than just basic functional skills; they wanted it to match their abilities and ambitions, and to provide opportunities for interaction with peers where possible.

Recommendations:

- Children with a deprivation of liberty order should be supported to remain in full-time education wherever possible and local authorities should prioritise keeping them in their current school if appropriate, with a responsibility on schools to co-operate as far as practicable. Where supervision at school is required by the deprivation of liberty order, this should be as non-intrusive as possible.
- Those children whose restrictions or needs mean they cannot attend school should receive suitable alternative provision which complies with their care plan, Personal Education Plan, and Education, Health and Care plan, and children should be fully consulted about their educational needs and aspirations.
- Educational provision should be reviewed alongside children's restrictions, with the intention of supporting them to transition back to a full timetable and appropriate school setting as soon as they can manage this.

Goal 8: Children receive the support they need with their mental health and overall wellbeing

"I'm getting help but I don't feel it's doing much [...] I'm very much on my breaking point" – Child on DoL order, 14.

What children want: Children told the Children's Commissioner's office that they wanted access to mental health support when they were struggling, without the delays caused by waiting lists, frequent moves, or being turned away from CYPMHS because they did not meet the criteria. Those children who did not like the idea of mental health interventions had still benefited from other forms of therapeutic support within their placement or educational setting, which was particularly positive when they had time to build up relationships with professionals. Children also explained that their mental health was substantially affected by the care they received, the level of their restrictions, opportunities for positive activities, contact with family and friends, and having a clear plan for the future.

Recommendations:

- Every Integrated Care Board should have a strategy to ensure it can meet the mental health needs of children with complex needs and trauma, who are at risk of being deprived of liberty. Representatives from Children's Social Care should be present at relevant Integrated Care Board and Integrated Care Partnership decision-making forums to enable data sharing, alignment of resources, planning, and provision of a range of accessible, joined-up mental health services.
- The Mental Health Act should be amended to place a duty on the NHS to provide services to any child who meets the criteria for admission, but where it is agreed that inpatient provision would not be in their best interests.
- Therapeutic support for children with a deprivation of liberty should be based on children's needs and should continue even as their restrictions are reduced, including when they move to alternative settings.
- Children's right to good mental health and well-being in the widest sense should be central to all plans and reviews of their deprivation of liberty, with a focus on positive activities, reductions in restrictions where appropriate, and clear outcomes to aim for.

Goal 9: Children deprived of liberty stay connected to people who are important to them and to their community

"People need to socialise" – Child on DoL order, 15.

What children want: Family and friendship was an important theme in the interviews with children and they were often unhappy about restrictions on contact with people who are important to them. They wanted support to maintain connections or build friendships, and to interact with other young people. Children and those around them were concerned about the impact of isolation on both their current wellbeing and their ability to adapt to living in the community without restrictions in the future.

Recommendations:

- Local authorities should have sufficient resources to place all children with a deprivation of liberty close to their home area, unless there are exceptional reasons not to do so. This will require capital funding for children's homes but is likely to lead to long-term savings due to reduced costs from hugely expensive out of area placements.
- Children's views on contact with family, friends and other significant adults in the lives should be sought at every review and built into plans and steps for reducing restrictions.
- All children deprived of liberty should have opportunities to interact with peers, and care staff should have appropriate training and procedures in place to safely manage risk and allow children regular access to the community wherever possible.

Goal 10: Children who have been deprived of their liberty receive carefully planned multi-agency support for as long as they need it

"I've been looking up about when I'm eighteen, about what's gonna happen, because I'm very worried..." – Child on DoL order, 17.

What children want: Children told the Children's Commissioner's office that they wanted clarity about their future and to be involved in discussions about plans for them. Children were worried about how they would transition back into education, and those approaching eighteen were concerned about impending moves and changes in staff and support.

Recommendations:

- Children who have been deprived of liberty should continue to receive tailored multi-agency support to meet their needs beyond the duration of the restrictions, including post-18 transitions.
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- Transition planning should start as soon as a deprivation of liberty authorisation is in place, and children should be involved in these discussions as far as possible.
- Children should not be moved on from settings which are appropriate for them as a result of positive progress, changes in their needs, or their restrictions ending; the expectation should be that settings will adapt to children.
- When it is clear that young people will need Adult Social Care support, adult learning disability and mental health services should also be included in transition planning at an early stage. There should be cross-sector co-ordination of resources so that bespoke placements can be maintained for children into adulthood if this is in their best interests.

Table 1: Summary of recommendations

Goal 1	Children have support to avoid a deprivation of liberty wherever possible
Goal 2	Children are heard and involved at all stages of intervention
Goal 3	Every looked after child lives in a quality home that meets all of their needs
Goal 4	Children’s social care and health work together to provide the right support and specialist children’s homes
Goal 5	A new legal framework protects all children deprived of liberty
Goal 6	All looked after children are cared for by excellent professionals
Goal 7	Children with a deprivation of liberty have their educational needs met
Goal 8	Children have the support they need with their mental health and overall wellbeing
Goal 9	Children stay connected to people who are important to them and to their community
Goal 10	Children and young people receive support for as long as they need it

Appendix

Topic guide for interviews

The topic guide below was used for all interviews with children. A slight variation of the topic guide was used for children with past experience of a DoL order. Topic guides covering the same themes from a parent/guardian and professional perspective were used for the interviews with adults.

Experiences of Deprivation of Liberty Topic guide for children

Introduction (5 minutes)

Before we start:

Check

- **consent** form(s) signed / whether there is record of their consent
- have seen the **information sheet**.

Introduce ourselves and the Children's Commissioner – explain the aim of the discussion today and how the session will be run:

Recap on key points from the information sheet, and add in further details:

- The Children's Commissioner - Dame Rachel de Souza - listens to children and young people's views and makes sure that important decision makers consider those views. She would like to hear from children and young people whose freedom has been restricted in different ways and have asked her to speak with young people like you, to inform this work. - SHOW PHOTO
- We have a few questions for you, but you can skip any questions you don't want to answer and it is OK if you want to stop the interview at any point.
- Sometimes it can be difficult or upsetting talking about things that have happened to us, so throughout the interview we will check on how you are feeling, and we will make sure you have access to any support you need.

- We have designed a few activities for you to make this session more fun rather than asking you one question after the other only. And just to be clear, you don't have to take part in those either.
- We would like to record our conversation so we don't miss anything, and we can write down what's been said. The recording will be deleted from the device afterwards and saved in a secure digital folder that no one except staff from the Children's Commissioner's Office can access. After the research is all written up and complete, it will be deleted from there too. Is that OK? (If unsure: If you don't want us to record our conversations we can take notes instead) All the things that young people tell us will go into a report. We will publish the report and we will share a copy with you.
- Everything you say will be anonymous, that means, no one will know your name or where you're from. We would like to include your age if you are happy for us to do so. We would then say in the report for example "A girl, aged 17, said this".
- If you decide after the interview that you don't want what you've shared to be included in the report, that's fine. Just let us know and we will delete all our notes. We are hoping for the report to be published within a few months, so you'd need to let us know by then. But it can still be deleted from the report after then.
- If you tell me something that makes me concerned that you or another person are at risk of abuse or harm, I will need to inform people who can help keep you and others safe.
- We would also like to talk to the people close to you, for example your parent/guardian or a professional who has been involved in your case e.g. a social worker. This is to give us a broad overview of your case to help us identify what could be done better in future cases where children have their freedoms restricted.
- Do you have any questions before we begin?

Questions

Will need to select questions based on background information collected prior to the interview to ensure they are relevant and trauma informed.

Child Initials:

Age:

Ethnicity:

Gender:

SEND:

Setting:

Can you tell me a bit about yourself? *(May start with sharing some relatable information about self to break the ice)*

We are here to talk about 'deprivation of liberty' - do you know what that means? *(If not clear then explain: Deprivation of Liberty refers to the removal of a person's freedom. A person's freedom may be restricted or controlled in different ways. A person deprived of their liberty is not free to leave the place they are living in and is usually under continuous supervision.)*

Timeline activity: Journey to this point and opportunities for action

To help me understand your life experiences and things that happened that led to you having your freedoms restricted and living here, it would be helpful if we drew a timeline together. Is that OK? *May wish to describe what a timeline is: 'a timeline is a line on which we mark and write important events that happened in your life in the order that they happened. The start of this line is when you were born and the end of the line is now.'*

Prompt questions to be informed by background information but consider:

Can you tell me about your life before you had your freedoms restricted? (you can share as much or as little as you like)

What do you think happened that led to you having your freedoms restricted? Can you tell me about the place(s) you have lived since having your freedom restricted? If moved between places– do you know why?

Can you tell me about the different people and services that have been involved in your care along this timeline?

Are there points on this line where you felt really happy or when things were going really well for you? Why?

Are there points on this line where you wish things had been different? In what way?

Are there times on this line where you think something better could have been done to change what happened next?

Thank you, that has really helped me to understand things that have happened to you to this point. Is it OK if I ask you a bit about what life is like for you now?

If currently deprived of liberty:

Day to day life

Can you describe what it is like for you living here? Can you talk me through a normal day for you?

How do you feel about living here?

What restrictions are there to your freedom? What aren't you allowed to do?

Do you understand why these restrictions/rules are in place? Can you explain this to me?

How are these restrictions enforced? *(Can simplify question/be more specific based on answers to above)*

How do you know you aren't allowed to do certain things?

What would happen if you tried to do something you weren't allowed to do?

Have your restrictions/ has what you are allowed to do changed at all over time?

What do you normally spend your days doing?

Is any education provided? Can you tell me about this?

Do you have any interests or hobbies? Is there anything you would like to do but aren't able to at the moment?

Who can you speak with if you've got important things to talk about or have any worries?

Relationships

Do you feel looked after? In what way?

Can you tell me about the people in your life that you care about? Are you able to spend time with them? *(Check background information to avoid retraumatising children who may have documented relationship breakdowns/bereavements. Aim is to understand access to family and friends; ability to maintain relationships post DoL order; impact of distance from home; ability to form new relationships)*

Explore further depending on response e.g.: How do you spend time with them? How do you stay in touch? How often do you have visits/calls etc?

Health

What care and services do you have access to that helps you with your health and wellbeing?

Is there anything you think would help improve your health and wellbeing?

Thank you for your answers so far. The next questions are about restraint and separation from others, are you happy to carry on? You don't have to answer the questions if you don't want to.

Restraint/separation/segregation

Have you ever been restrained? Do you feel comfortable talking to me about this experience?

Have you ever been separated or kept in isolation from other people? What was that like? How did it make you feel? (*Will need to consider question in relation to background info - if permanently segregated would need to rephrase and sensitively ask about their experiences*).

Agency

Do you feel you have a say in decisions about your life? Why do / don't you feel that way?

Participation in Deprivation of Liberty proceedings

How much did you understand about why you were going through the deprivation of liberty process?

Were decisions about your care explained to you? (Who explained, how, when...)

Were you given the opportunity to share your feelings about where you stayed and what restrictions would be in place?

Did you feel listened to?

Do you feel you were treated fairly?

Did you feel people were making the right decisions for you? Who would you have liked to make decisions for you?

Thank you for all your helpful responses. We have almost finished now. The last part of our conversation is about your ideas on how care and services can be improved. Are you happy to continue?

Ideas for the future

We know that some children have problems that means they need lots of help to keep them safe and well and support them with their needs and behaviour. This help comes from different services including social workers and doctors. Currently, some children are in places that aren't able to meet all of their needs in the best way. The Children's Commissioner wants the government to find better ways of making sure children can get the therapy and care they need. She wants health services and care services to work together to help these children to recover and rebuild their lives.

We would like to hear your ideas on what you think the government should do to make these children's lives better.

What would you have wanted for yourself?

What are your hopes for the future?

What could be done to make life better for children and young people who have similar experiences to yours?

If you were in charge of designing a service or accommodation to support children and young people in a similar situation to yours what would you do?

Is there anything else you think the government should do about this issue?

Optional art based task to help capture ideas of what an alternative model of care/accommodation setting might look like?

Thank you so much for your time!!

Let the young person know where they can get in touch for more thoughts they'd like to share. Again, let the young person know what will happen with what they've told us and where they can find the final report.

- Is there anything that you would like to add about any of the things we've talked about?
- Do you have any questions at all for me?
- To say thank you, we would like to give you a gift to the value of £40. This is in no way a representation of the time you have given us and the experiences we have shared with us. It is a small gesture to say thank you. Is there anything in particular you would like, or should we send you a voucher?
- Please do be in touch with the Children's Commissioner's team if there is anything else you'd like to share your views on, or further thoughts related to this (*can reshare information sheet with contact details on*)
- Would you like to be emailed a link to the report once it is published? (*if so, ensure we have contact details in order to be able to share*)
- If you would like any personal support, you can call the Children's Commissioner's Help at Hand team on 0800 528 0731 (9am-5pm Monday to Friday) or email help.team@childrenscommissioner.gov.uk. Our team of child rights advisers are there to offer advice and assistance to children who are in care or living away from home.
- Thank you
- Share list of helplines.

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