

Written evidence submitted by Just Kids for Law

Excluded, exploited, forgotten:

Childhood criminal exploitation and school exclusions

Key points

- 1 Children who are outside of mainstream education are more vulnerable to becoming the victim of childhood criminal exploitation.
- 2 Children who have experienced exploitation will be more vulnerable to exclusion and may be disproportionately impacted by exclusion.
- 3 Existing evidence and evidence from Just for Kids Law's casework suggests that some behaviour that leads to exclusion can be orchestrated by criminal actors as a part of furthering that child's exploitation.
- 4 In its rewrite of the statutory guidance, the Department for Education (DfE) should include provisions that mitigate the risk that victims of exploitation will be excluded and protect the children most vulnerable to exploitation in the future.

1. Vulnerability to CCE

There is a clear and near-universally acknowledged statistical link between exclusions and children and young people becoming involved in violent crime as either victim or perpetrator¹, though the Government has cautioned against treating this correlation as indicating causation. However, from our experience, it is clear that young people outside of mainstream education are at an increased risk even if a causative link has not yet been proved.

This report describes one way in which this phenomenon manifests – through the process of child criminal exploitation (CCE).

The National Crime Agency identifies placement in alternative provision (AP) as a factor that will increase a young person's risk of CCE.² The Children's Society, National Police Chief's Council, the Home Office and the Youth Justice Legal Centre project at Just for Kids Law have all identified exclusion from mainstream education as a factor that places young people at risk of CCE³ with the NSPCC stating that children are more likely to be exploited when "they've been excluded from school and don't feel they have future".⁴

Just for Kids Law Case Example

Mark strongly believes that social isolation was the root cause of him getting groomed into county lines activity. He said that his exclusion was "*the tipping point*". He believes that if he had not been excluded, he would never have been criminally exploited. What led to the exploitation was the fact that, once he was excluded, he was completely alone; the school had "*washed their hands*" of him and were not concerned of what he was doing now his time under their supervision had ended. He also did not have friends he could reach out to during particularly low moments during his exclusion. He felt like he had no one.

Mark, 23

Just for Kids Law has observed, over many years of working in this field, that the number of children in the criminal justice system who have experience of exclusion is enormous. There are several reasons for this. Children in Pupil Referral Units (PRUs) are typically supervised for fewer hours per week than those in mainstream education and some children disappear from the education system altogether and do not attend AP. We regularly see families opt not to send children to a PRU for fear of the detrimental consequences, even where there is no other placement on the table.

Children have also reported to us that a process of institutionalisation occurs in PRUs, with exposure to violence, drugs and gang associations that had not been present in mainstream school. These risks multiply when the young person is already vulnerable to exploitation because, for example, they have additional needs which makes them easier to manipulate, or they have siblings or other family members who have become involved in criminal activity, or they live in, or the PRU exists in, an area known to be one where exploitation takes place. CCE can be hugely damaging for children and young people and, in some cases, fatal.

This is particularly as most children have not been in school due to Covid-19. The widespread lack of protection that normally comes with being in school could mean some children have been experiencing exploitation during lockdown.⁵ There is a risk that these and other adverse experiences, and a lack of SEND (Special Educational Needs and Disability) support in lockdown may result in challenging behaviour which could lead to a spike in exclusions when schools reopen if children are not reintegrated and supported effectively. This may put more children at risk of CCE.⁶

“There’s nothing going for you [once you’re excluded] nobody really cares, so they get involved in crime...people expect it anyway.” **Daniel (17)**

The DfE should use the opportunity presented by the rewrite of the statutory exclusions guidance to require headteachers and governors to consider what risk factors exist and consider whether these should prevent the exclusion from proceeding. (See section 4.)

2. Experience of CCE whilst in mainstream education

Some children and young people will have experienced CCE whilst in mainstream education. This raises two issues. The first is that the behaviour a child or young person undertakes as a direct result of their exploitation may lead to their exclusion.

We understand that behaviour resulting from exploitation will likely be concerning for schools – if a child or young person is trafficked or otherwise criminally exploited it will typically be to carry a weapon, drugs or both.⁷ Many schools have a zero-tolerance approach to either. However, whilst that may be considered appropriate in cases where a child or young person has taken it upon themselves to engage in this activity without coercion, in cases of CCE, it furthers that young person’s exploitation and punishes them for what is clearly a critical safeguarding issue.

In the criminal courts, if a child is referred through the Home Office’s Single Competent Authority National Referral Mechanism (NRM), and found to be the victim of CCE, they may have a defence in law to the offences they are charged with.⁸ However, in education there is no equivalent. This means children can be excluded for behaviour directly resulting from them being exploited or trafficked, increasing their vulnerability and potentially furthering their exploitation.

The second issue facing children who are exploited, whilst in mainstream education, is that they may well experience trauma and other adverse experiences as a result. Violence, conflict, trafficking and threats can have a catastrophic impact on a child or young person and this will impact their interaction with adults and peers. There is already a large body of evidence to support a trauma-informed approach to behaviour and the Timpson Review made recommendations for the Government to take forward training programmes to equip schools to deal with such behaviours.⁹ A 2018 programme of joint

targeted area inspections found examples of children who started going missing from school around the time that their behaviour deteriorated in school, which were a result of their being exploited by county lines drugs traffickers.¹⁰

The Statutory Exclusions Guidance already directs schools to consider possible underlying causes of a young person's behaviour. However, a simple clarification to include CCE as a specified possible cause could be hugely beneficial for some young people at risk, and helpful to headteachers trying to understand if there is important contextualising information behind a decline in behaviour.

3. Exclusion by design

Reports from the All-Party Parliamentary Group on Knife Crime and Ofsted both cite cases where a child's exclusion has been engineered by people who are seeking to criminally exploit them, in order to make them easier to control.¹¹ Just for Kids Law has come across cases where this seems to be the likely reason behind uncharacteristically poor behaviour by a child. (See the case studies below.)

No child should be excluded where the behaviour that caused that exclusion would not have happened but for their exploitation. However, protections should be particularly stringent where their exclusion would actively further the enterprise of their exploiters. In such circumstances, it is only appropriate that safeguarding steps are taken to ensure the child or young person's welfare is protected, and the influence of their exploiters prevented, to ensure they can move past their experiences and engage productively with their education.

Failure to do so will encourage traffickers to continue this practice and put more young people at risk. Protections for children and young people will uphold their rights and safety, but also close down this method of coercive recruitment by rendering it ineffective.

"Some [excluded] young people might find themselves in positions where they get involved in a life of crime either being left with no other option or being exploited" Marshall (25)

4. Amendments to the Statutory Guidance

The Government has stated its intention to update the statutory exclusions guidance this year. Just for Kids Law urges the Government to include amendments to reflect appropriate protections for young people who have been victim of, or are vulnerable to becoming victims of, CCE.

We recommend the following amendments:

- In the key points, a paragraph directing that: "Poor behaviour may indicate that a young person has been, or continues to be, the victim of criminal exploitation. The headteacher must consider whether the child or young person presents with any warning signs that they have been or continue to be a victim of criminal exploitation, and consider whether exclusion is appropriate. The headteacher should refer to Annex (X) for a definition of child criminal exploitation and a guide to the relevant warning signs."
- In the section headed "Statutory guidance on factors that a head teacher should take into account before taking the decision to exclude", a paragraph should be inserted directing that: "*The headteacher must consider whether there is reason to believe, on the balance of probabilities, that a child or young person's exclusion is part of an effort to further their criminal exploitation, or would likely advance the criminal exploitation of that young person. In such circumstances the headteacher will avoid permanent exclusion wherever possible. The headteacher should engage the advice of social services and other relevant organisations to consider whether a referral to the Home Office's Single Competent Authority National Referral Mechanism is required. The headteacher should refer to Annex (X) for a definition of child criminal exploitation and a guide to the relevant warning signs.*"

- After paragraph 63, which directs the governing body to consider the interests and circumstances of the excluded pupil, insert a paragraph directing that: *“In the governing body’s consideration of the excluded pupil’s circumstances, they will consider whether the young person is likely to be at heightened risk of criminal exploitation by their exclusion and will, if risk factors are identified, assess whether the exclusion is still proportionate given all the circumstances. The governors should refer to Annex (X) for a definition of child criminal exploitation and a guide to the relevant warning signs.”*
- In addition, the statutory guidance should include an annex on CCE to support decision makers to understand the relevant issues. This should include a definition of CCE and county lines. The annex should also include an authoritative list of factors that are indicative of ongoing exploitation, or that the young person is at risk of exploitation.
- A list of indicators was produced by The Children’s Society in partnership with the National Police Chiefs Council in the report Children and young people trafficked for the purpose of criminal exploitation in relation to county lines: a toolkit for professionals.¹² The Youth Justice Legal Centre at Just for Kids Law produced a practical guide to identifying CCE in the publication Child Criminal Exploitation: county lines gangs, child trafficking & modern slavery defences for children.¹³ Finally, the Home Office has produced a guide to CCE including vulnerability factors and “signs to look out for”.¹⁴ An amalgamation of these lists should be created for quick, simple reference by headteachers.
- The Annex should include a list of resources or organisations for heads, governors and Independent Reviewing Panels to turn to should they need clarity on whether the child or young person’s particular circumstances should raise concern. This can be achieved simply by reference to the list of organisations who can act as “first responders” to the NRM. First responders are the organisations who are allowed to refer a young person to the NRM. A complete list can be found in the Government’s guidance to the NRM.¹⁵
- Finally, the annex should be clear that asking the child or young person directly whether they are being exploited may not yield a definitive answer. Many children and young people will be highly motivated to deny, or not realise, they are a victim of exploitation.¹⁶

Case Studies

Jake* - 16 years old

Jake lived most of his life in London. When his mother moved from London to the Midlands Jake joined a local secondary school to take his GCSEs. Jake did not enjoy the school. He comes from a Black Caribbean background and had been in a school with lots of children who share this ethnicity. In the new school, he felt like an outsider and grew concerned that his classmates were judging him for the colour of his skin. Indeed, he was the victim of a number of instances of racial abuse by classmates and he became disheartened.

Only a few months after joining the school, Jake began to go missing at the weekends. He would not tell anyone where he had been. After the second episode he attacked a student at school which appeared unprovoked. He offered no explanation for his behaviour despite the fact he had never been in serious trouble throughout his school career and had never been violent with anyone before.

He was permanently excluded. Shortly after his exclusion he went missing again, this time during the week. He was found by police in London who came to suspect that he had fallen victim of trafficking and criminal exploitation.

Jake is now out of education. He has no educators keeping him occupied and supervised during the day. It has become much more difficult to keep him out of the hands of his

exploiters. The family suspect that he was coaxed into attacking another student, given that this incident was unprovoked, out of character and came at a time when he was in the control of people using him to transport drugs. Whether that is proved or not, his exclusion was a gift to those people, and put Jake at much greater risk.

Eliot* - 16 years old

Eliot lived in London. He had a hugely difficult childhood having been the victim of severe domestic violence which resulted in multiple hospitalisations. He later fell victim to county lines drugs trafficking and was referred to the National Referral Mechanism. He received a positive conclusive grounds decision and was moved out of London to live with his grandmother in the Cotswolds for his safety. Unfortunately, after only one month he was permanently excluded. Initially, he was referred to the local PRU where he was at risk of being trafficked again. This PRU was the only one in the local authority's region, but it was in a city as opposed to the village Eliot had moved to. Being in a city, it would likely expose Eliot to the same influences that had pushed him into exploitation in London.

**Names have been changed*

Endnotes

- 1 The Mayor and seven Police and Crime Commissioners has acknowledged this link and wrote to the Prime Minister to urge action on this issue in March 2019. Guardian (March 2019) *'PM urged to fix school exclusion system to tackle knife crime'* <https://www.theguardian.com/uk-news/2019/mar/07/pm-urged-to-fix-school-exclusion-system-to-tackle-knife-crime-sadiq-khan>. See also APPG on Knife Crime (October 2019) *Back to School*. <https://www.aep.org.uk/news/appg-knife-crime-report-on-link-between-school-exclusions-knife/>. See also Ofsted report (March 2019) *Safeguarding children and young people in education from knife crime* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785055/Knife_crime_safeguarding_children_and_young_people_110319.pdf
- 2 NCA Intelligence assessment (2018) *County lines drug supply, vulnerability and harm*. See paragraph 30 <https://nationalcrimeagency.gov.uk/who-we-are/publications/257-county-lines-drug-supply-vulnerability-and-harm-2018/fil>
- 3 See section 4 of this paper.
- 4 NSPCC Website: <https://www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/gangs-criminal-exploitation/>
- 5 The Independent (March 2020) *Coronavirus: Children could be targeted by county lines gangs as schools shut down, teachers fear* <https://www.independent.co.uk/news/uk/crime/coronavirus-schools-shut-children-county-lines-drug-gangs-a9415691.html>
- 6 See for example: TES (May 2020) *Covid-19: 'Trauma gap' could overwhelm schools and PRUs* <https://www.tes.com/news/coronavirus-trauma-exclusions-reopen-prus-schools-lockdown>
- 7 Joint report of Ofsted, Care Quality Commission, HMI CFRS, HMIOP (2018) *Protecting children from criminal exploitation, human trafficking and modern slavery: an addendum* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756031/Protecting_children_from_criminal_exploitation_human_trafficking_modern_slavery_addendum_141118.pdf
- 8 YJLC (2019) *Child criminal exploitation: County lines gangs, child trafficking and modern slavery defences for children* <https://yjlc.uk/wp-content/uploads/2018/01/Modern-Slavery-Guide-updated-2018.pdf>
- 9 Edward Timpson (2019) *Timpson Review of School Exclusion* see recommendation 5. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/80TIMPSON%20REVIEW%20OF%20SCHOOL%20EXCLUSION7862/Timpson_review.pdf
- 10 Joint report of Ofsted, Care Quality Commission, HMI CFRS, HMIOP (2018) *Protecting children from criminal exploitation, human trafficking and modern slavery: an addendum* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756031/Protecting_children_from_criminal_exploitation_human_trafficking_modern_slavery_addendum_141118.pdf See Jake's case study on page 5.

- 11 APPG on Knife Crime (October 2019) *Back to School*. See page 14. <https://www.aep.org.uk/news/appg-knife-crime-report-on-link-between-school-exclusions-knife/>. See also Ofsted report (March 2019) *Safeguarding children and young people in education from knife crime* paragraph 64 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785055/Knife_crime_safeguarding_children_and_young_people_110319.pdf
Ofsted (March 2019) *Safeguarding children and young people in education from knife crime: Lessons from London*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785055/Knife_crime_safeguarding_children_and_young_people_110319.pdf
- 12 The Children's Society (2018) *Children and young people trafficked for the purpose of criminal exploitation in relation to county lines: a toolkit for professionals* starting at page 11 <https://www.csepolicyandprevention.org.uk/sites/default/files/Exploitation%20Toolkit.pdf>
- 13 YJLC (2019) *Child criminal exploitation: County lines gangs, child trafficking and modern slavery defences for children*. Page 5 under the heading "identifying CCE" <https://yjlc.uk/wp-content/uploads/2018/01/Modern-Slavery-Guide-updated-2018.pdf>
- 14 Home Office (2018) *Criminal Exploitation of children and vulnerable adults: County Lines guidance*. Starting on page 4. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863323/HOCountyLinesGuidance_-_Sept2018.pdf
- 15 Home Office webpage (January 2020) *National referral mechanism guidance: adult (England and Wales)*. See section 4 "First responder organisations" <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#first-responder-organisations>
- 16 YJLC (2019) *Child criminal exploitation: County lines gangs, child trafficking and modern slavery defences for children*. Page 3 under the heading "grooming and coercion" <https://yjlc.uk/wp-content/uploads/2018/01/Modern-Slavery-Guide-updated-2018.pdf>

ABOUT JUST FOR KIDS LAW

Just for Kids Law is a UK charity that works with and for children and young people to hold those with power to account and fight for wider reform by providing legal representation and advice, direct advocacy and support, and campaigning to ensure children and young people in the UK have their legal rights and entitlements respected and promoted and their voices heard and valued.

We provide legal support to young people through the process of challenging school exclusions. We advise children on their legal rights and entitlements and provide representation in exclusion reviews and discrimination appeals. Our youth advocates work with young people to secure support from health and special education services before, during and after an exclusion. Our participation team work with young people to process the experience of exclusion, express their feelings and inform our work on effecting systemic change in this area. Our crime team have provided legal defence to young people who have been the victims of county lines trafficking and supported them through the National Referral Mechanism. Just for Kids Law also launched the School Exclusions Hub in 2019, providing an online toolkit for advice and community organisations to provide support to families facing exclusion across England and Wales, and filling advice deserts that currently exist.

ABOUT CRAE

The Children's Rights Alliance for England (CRAE), is part of the charity Just for Kids Law and works with 150 organisational and individual members to promote children's rights, making us one of the biggest children's rights coalitions in the world. We believe that human rights are a powerful tool in making life better for children. We fight for children's rights by listening to what they say, carrying out research to understand what children are going through and using the law to challenge those who violate children's rights. We campaign for the people in power to change things for children. And we empower children and those who care about children to push for the changes that they want to see.

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