



The Michael Sieff Foundation

Working together for children's welfare

Justice for children with SEND & neurodivergence

Executive Summary

Government statistics have revealed that 80% of children cautioned or sentenced in England and Wales have Special Education Needs and Disabilities (SEND). Neurodivergent children also enter custody at higher rates from an earlier age, receive longer custodial sentences and are associated with higher rates of reoffending and violent crimes.

The Sieff Foundation convened an expert Working Group to consider what reforms would enable these children to avoid contact with the justice system, and for those that do enter the system, what would help them go on to lead well-functioning, fulfilled and productive lives as adults.

The Review found that the justice process and many professionals working within it are ill-equipped to deal with this group of children. It has identified and costed a set of practical and effective reforms that could be implemented without primary legislation. The combined cost of implementing all of the Review's recommendations would be £16.3m per year. This could produce £191m economic benefits per year, of which £72m would be direct financial benefits to the government.

Children with SEND
& neurodivergence

80%
of all cautioned or
sentenced children

Higher Rates

- school exclusion
- custody at earlier age
- longer sentences
 - reoffending
 - violent crimes

Review recommendations
£16.3m costs
£191m benefits
£72m direct savings

The problem

Almost all children in the criminal justice system have SEND and/or neurodivergence. These conditions can create challenges in communication and social interaction and make them more vulnerable to school exclusion and becoming involved in criminal behaviour. Criminalising these children when they do not receive adequate support is expensive, ineffective and unjustified.

The Review's main findings

- **Teachers** frequently lack the necessary skills to recognise early signs of SEND and/or neurodivergence, resulting in delayed interventions that could prevent offending.
- **Co-location** of support services is necessary for better intelligence, interdepartmental communication and emphasis on early intervention prior to YJS contact, but this rarely occurs
- The **justice system** retains outdated features that are harmful to children with SEND & neurodivergence.
- There is **no universal screening** system for SEND & neurodivergence for children entering the justice system.
- **Police and legal representatives** are not sufficiently trained to deal appropriately with SEND and neurodivergent children.
- **Court processes** are still not well adapted to improve the participation of children with SEND or neurodivergence.
- **Judges** lack sufficient specialised training in understanding SEND and neurodivergence in children.
- The **secure estate** does not currently have a comprehensive approach to children with SEND and neurodivergence.
- **Multi-agency collaboration** is vital for successful reintegration into society for children who offend, but this rarely occurs.
- **Data collection and reporting** on children with SEND & neurodivergence is insufficient.

Review's Recommendations

Prevention

Schools

- * Compulsory teacher training in SEND/ neurodivergence to improve early identification.

First contact with the justice system

Police and legal representatives

- * Mandatory screening of child suspects for SEND/neurodivergence at police stations.
- * Compulsory training in SEND/ neurodivergence in children for police & legal representatives who work in the YJS.
- * Intermediaries to be present during police interview for all child suspects where mandatory screening has identified SEND or neurodivergence.
- * Improved conditions for children detained in police stations.

The court process

Crown Court

- * Mandatory training and authorisation of Circuit Judges and High Court Judges in order to preside over any cases with child defendants in the Crown Court.

Youth Court

- * Enhanced judicial training in SEND/ neurodivergence in children for District Judges, Magistrates and Legal Advisers in the Youth Court.
- * New preliminary paper hearings in the Youth Court to review cases to ensure SEND and neurodivergence have been adequately considered and appropriate adaptations put in place.

Sentencing & custody

- * Section 9 reports should be requested of local authorities by the courts in every case where custody or intensive supervision is being considered in either the Crown Court or Youth Court.
- * Regular review of sentences for under 18 defendants in both the Crown Court and Youth Court.

Multi-agency coordination

Independent Reviewer of Youth Justice

Creation of an Independent Reviewer of Youth Justice charged with:

- * overseeing the implementation of this Review's recommendations; and
- * annually reviewing and reporting on multi-agency coordination (Department for Education, Department of Health & Social Care, Ministry of Justice/HMCTS, Home Office, Youth Justice Board) and communication between families, schools, health services, social services, police, legal professionals, courts and tribunals.

Data collection & reporting

- * A cross-sector data management system should be introduced to track children through education, health, social care and justice to more accurately predict pathways and create prevention routes.
- * Better data collection and reporting on both the Youth Court and Crown Court is needed, including numbers of authorised judges, numbers of child defendants, offences, case outcomes and range of sentences .
- * Unit Costs for staff and process in the criminal justice system should be published to correspond to the approach taken with Unit Costs for Health and Social Care.

Children in the Justice System in numbers

103,135
annual encounters with police
58,889
arrested per year

43%
in custody are on remand
62%
on remand do not receive
custodial sentence

50%
of offending is reoffending
£300-900m
benefits with 10% reduction
in reoffending

[Download the report here](#)



Working Group for *Justice for Children with SEND & Neurodivergence*

Kate Aubrey-Johnson	Barrister, Garden Court Chambers and Executive Director, Child Rights and Youth Justice
Sir Robert Buckland KC	Barrister, Foundry Chambers; Lord Chancellor and Secretary of State for Justice (2019-2021)
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Richard White	Trustee, Sieff Foundation



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About the Michael Sieff Foundation

Improving policy and practice for the well-being of children and young people

The Michael Sieff Foundation is a registered charity that is dedicated to improving policy and practice for the well-being of children and young people by bringing together people with wide ranging responsibilities for vulnerable children and young people, resulting in action being taken in practical ways. Since research shows the best outcomes for children depend on multi-disciplinary work, the Foundation encourages multi-agency collaboration.

Since 1987 the Foundation has made a significant contribution to policy and practice in the sphere of child protection, the social re-integration of young offenders, combating cross border paedophile activity, improving the conditions for children giving evidence in court, work with early years' children and the welfare of children in primary schools.

On conclusion of a cycle of conferences from 2008 to 2011 the Foundation decided to work in partnership with other like-minded organisations in order to build on our reputation for promoting conferences and our resources for networking. The Foundation offers internal expertise on specific subject matter, database pooling, assistance in Parliamentary promotion where appropriate and subsidy or underwriting. We focus on areas where we have historical knowledge and emotional capital and where there is a reasonable likelihood of a successful outcome.