

## Universal Periodic Review: UK 4th Cycle

### Policing and the child justice system

#### Suggested questions for the UK:

- What steps are the UK Government and devolved administrations taking to meet the child justice standards expressed in General Comment 24 – including raising the minimum age of criminal responsibility in line with international human rights standards; and ensuring that the detention of children is always a matter of last resort?
- What steps is the UK Government taking to address the racial disproportionality which is pervasive across all areas of the youth justice system?
- What steps are the UK Government and devolved administrations taking to ensure all under 18s are treated as children by the justice system?
- What measures have been taken by the UK Government and devolved administrations to prohibit the use of Tasers, AEPs, CS spray, Spit and Bite Guards and other harmful devices on children, in compliance with international human rights standards?
- What measures are the UK Government and devolved administrations taking to end the disproportionate use of stop and search against children?
- What steps are the UK Government and devolved administrations taking to ensure that strip searching of children is only carried out when absolutely necessary, and only when in the best interests of the child?
- What measures have the UK and devolved governments put in place to ensure that a child can maintain their relationship and contact with an incarcerated parent when there is no court order preventing contact?

#### Suggested recommendations for the UK:

The UK and devolved governments should:

- Introduce legislation at the earliest opportunity to substantially increase the minimum age of criminal responsibility in line with international standards.
- Take concrete steps to ensure that racial disproportionality across policing and the youth justice system is addressed.
- Introduce legislation to ensure that all under 18s are treated as children by the justice system. This should cover all stages of the child's journey through the justice system, from first contact to disposal.
- Embed in law that children will only be deprived of their liberty as a last resort, and for the shortest possible time and ensure that children are not detained due to lack of alternative accommodation, unjustified bail conditions or homelessness.
- Prohibit the use of Tasers, AEPs, CS spray, Spit and Bite Guards and other harmful devices on children, in compliance with international human rights standards. At the very least there should be clear national guidance and adequate training to ensure they are only used on children as an absolute last resort.

- Ensure restraint against children is only used as a last resort, exclusively to prevent harm to the child or others, and never to deliberately inflict pain. All methods of restraint for disciplinary purposes should be abolished.
- Strengthen the law, guidance and training to ensure children are not subject to strip-searching unless absolutely necessary, when it is in the best interests of the child and only in the presence of an appropriate adult.
- Ensure police accountability, including compliance with the CRC, in police use of stop and search powers against children.
- Ensure routine assessment of impact on rights of children impacted by the imprisonment of a carer, ensure that a child can maintain their relationship and contact with an incarcerated parent where there is no court order to prevent contact, and ensure that children of incarcerated parents receive appropriate information, support and advocacy.

The UK Government should:

- Provide a clear plan, including timescales, for the closure of all juvenile YOIs and STCs in England and Wales; introduce child specific maximum sentences and abolish life imprisonment for offences committed by children.

### Age of Criminal Responsibility

**Recommendations 134.205, 134.206, 134.207 and 134.208 have not been met.** The UN Committee has consistently raised concerns about the low age of criminal responsibility - just 10 years in England, Wales and Northern Ireland and 12 years in Scotland. International guidance calls for a minimum age of at least 14.<sup>1</sup>

### Definition of a child

Under 18s in the justice system are frequently treated as adults. In Scotland, legislation excludes 16- and 17-year-olds from the status of 'children', enabling them to be tried in adult courts and detained in Young Offenders' Institutions.<sup>2</sup> This is a breach of children's rights under the CRC, which defines a child as anyone under age 18.

### Detention not used as a last resort and poor treatment of children in prison

The CRC's (2016, para 79d) recommendation to establish the statutory principle that detention should be used as a measure of last resort for the shortest possible period of time has not been fulfilled.

In England and Wales, children are still held in prison-like Secure Training Centres and Young Offender Institutions despite it being concluded back in 2017<sup>3</sup> that such institutions are not capable of caring for or rehabilitating children. While children remain in prison, their safety and welfare are at risk. More than half of children in prison are Black or from other ethnic minority groups.<sup>4</sup> The proportion of children held in custody on remand is increasing and accounted for 40% of all children in prison by March 2021. Almost three quarters of children remanded to custody received a non-custodial outcome.<sup>5</sup> The number of children in custody is expected to more than double by September 2024<sup>6</sup>

<sup>1</sup> CRC/C/GC/24: Para 22.

<sup>2</sup> Criminal Procedure (Scotland) Act 1995: Section 207(3); Children (Scotland) Act 1995

<sup>3</sup> Wood, A., (Chair)Sue Bailey, S., Butler, R. (2017) Findings and recommendations of the Youth Justice Improvement Board

<sup>4</sup> UK Government (2022). [Youth Custody Report: June 2022](#)

<sup>5</sup> Ministry of Justice and Youth Justice Board (2022) Youth Justice Statistics: England and Wales 2020-2021

<sup>6</sup> National Audit Office (2022) [Children in Custody: Secure Training Centres and Secure Schools](#)

Children are still regularly subjected to use of force in prison. Annual statistics show there were almost 4,500 use of force incidents in Secure Training Centres (STCs) and Young Offender Institutions (YOIs).<sup>7</sup> Use of force is highest for Black children.<sup>8</sup> The Independent Inquiry into Child Sexual Abuse concluded: “the use of pain compliance techniques should be seen as a form of child abuse.”<sup>9</sup> Restraint can also be used on children in YOIs for “good order and discipline”. Routine strip-searching of children in YOIs was replaced with risk-based strip searching in 2014. However, concern has been raised that too many children in prison are still being strip-searched.<sup>10</sup>

There has been no progress on recommendations 134.203 and 134.204. The requirement that any child convicted of murder receive a life sentence remains of great concern as is the availability and frequent use of discretionary life sentences and other “adult” sentences, especially as the average length of sentence has increased substantially in recent years<sup>11</sup> and new legislation will increase custody time.<sup>12</sup>

In Scotland, children are being inappropriately detained in Young Offenders Institutions due to lack of alternative accommodation. High numbers are being held on remand, which means they have not yet had their case heard or been convicted of an offence.<sup>13</sup> This does not align with the presumption against pre-trial detention in Scots law, ECtHR judgments or international guidance. While Scottish Government says it does not use ‘solitary confinement’ on children in YOIs, recent research has highlighted a combination of factors that may result in conditions which are “equivalent to solitary confinement”.<sup>14</sup>

In Northern Ireland, specific groups remain over-represented in custody, including children in care, Catholic children, children with mental health issues or learning disabilities. Children are also spending longer in the Juvenile Justice Centre than necessary due to a lack of appropriate accommodation for bail.

### Police Use of Force

Tasers have been drawn and fired at children in Northern Ireland. In NI it is still legal to use Attenuating Energy Projectiles [AEPs] against children and the Police Service of Northern Ireland (PSNI) continues to use AEPs in public order situations when children are present<sup>15</sup>. The PSNI have also used CS Spray against children including, in 2016, in a children’s home. Provided with extraordinary powers as part of a response to the Coronavirus outbreak, the PSNI introduced use of ‘spit and bite guards’ to ‘protect’ officers from COVID-19, despite the absence of evidence that they afford protection and indication that they may exacerbate transmission risk. These have been used on children.<sup>16</sup>

In England and Wales use of Tasers on children continues to rise.<sup>17</sup> Latest annual figures show police forces used Tasers against children 2,091 times, including 6 times against under-11s.<sup>18</sup> Of this number, 122 were

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<sup>7</sup> Comparable data are not held for SCHs. Ministry of Justice and Youth Justice Board (2022) Youth Justice Statistics: England and Wales 2020-2021

<sup>8</sup> Ibid. The average monthly rate of use of force per 100 children for Black children was 72.2 compared to an overall average of 63.2.

<sup>9</sup> Independent Inquiry into Child Sexual Abuse (2019) [Sexual Abuse of Children in Custodial Institutions: 2009-2017](#)

<sup>10</sup> Howard League for Penal Reform (2016) The Carlisle Inquiry Ten years on: The use of restraint, solitary confinement and strip-searching on children

<sup>11</sup> The average custodial sentence length for all offences has increased by over five months over the last ten years from 11.4 months to 16.8 months. Ministry of Justice and Youth Justice Board (2022) [Youth Justice Statistics: 2020-2021](#)

<sup>12</sup> The Police, Crime, Sentencing and Courts Act will increase the number of children in custody. Alliance for Youth Justice (2021) [Police, Crime, Sentencing and Courts Bill: Alliance for Youth Justice Briefing](#)

<sup>13</sup> CYCJ (no date). [Children and young people on remand in Scotland](#)

<sup>14</sup> McCall-Smith, K. (2022). [Solitary Confinement, Torture and Children: Applicable minimum standards.](#)

<sup>15</sup> PSNI (no date). [Statistics on Police Use of Force.](#)

<sup>16</sup> Between March 2020 - March 2022, Spit and Bite Guards were used 16 times on under 18s in NI. Source: FOI request submitted by Children’s Law Centre

<sup>17</sup> The number of incidents has risen from 16,193 in 2017/18 to 34,429 in 2020/21. Home Office (2021) [Police use of force statistics, England and Wales: April 2020 to March 2021](#)

<sup>18</sup> Ibid

discharged which includes 1 discharge on a child under 11.<sup>19</sup> Taser is also used disproportionately on Black children.<sup>20</sup> In 2020/21, spit-hoods were used on children 652 times, including twice on under-11s.<sup>21</sup> Children have described how traumatic and distressing it is to be hooded.<sup>22</sup> Despite evidence of dangers of asphyxiation and trauma, there has been no assessment of how safe they are to use on under-18s and there is no national guidance for use on children. Use of mechanical restraints on children can be used in police custody in England and Wales. In 2020 to 2021, there were 3,646 instances of limb/body mechanical restraints, 41 of which were for under 11s.<sup>23</sup>

Tasers have also been drawn and fired at children in Scotland.<sup>24</sup> <sup>25</sup> Concerns have been raised around data recording and transparency.<sup>26</sup>

### Stop and Search and strip search

Stop and search is traumatic for children. Figures demonstrate that the Police Service of Northern Ireland are using stop and search at a higher rate per 1000 of the population than every other police service in the UK except the Metropolitan Police Service in London and Merseyside Police in Liverpool (approximately 13 stops per 1000 compared with 5 per 1000 in England and Wales), with one of the lowest ‘outcome’ rates (arrests) in the UK at just 6%.<sup>27</sup> In 2021/22, 2259 children and young people were stopped by the PSNI, which resulted in 63 arrests, resulting in a conversion rate of 2.7%.<sup>28</sup> Concerns about the strip searching of children have also been raised in Northern Ireland.<sup>29</sup>

In England and Wales, Black people are nine times more likely to be stopped and searched than white people.<sup>30</sup> Due to lack of data, it is difficult to know the proportion of black children who are stopped and searched, but it is likely to be disproportionate.<sup>31</sup> Children’s rights are still being violated through strip searching, more clearly illustrated in a recent safeguarding review report,<sup>32</sup> without the presence of an appropriate adult, as is required by law.<sup>33</sup> There is a lack of regularly published data on this issue, but a recent FOI request found that between 2016 – 2021, the Metropolitan Police Service (MPS) carried out 9,088 strip searches of children. Some were 12 years old or younger.<sup>34</sup>

### Overnight police detention

Fewer children are entering police custody in England and Wales due to reduction in child arrests<sup>35</sup>, but the treatment of those that do is concerning. Annual data shows that a high proportion of child arrests results in

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<sup>19</sup> Ibid

<sup>20</sup> Children’s Rights Alliance for England (2019) [State of Children’s Rights in England 2018: Policing and Criminal Justice](#)

<sup>21</sup> Home Office (2021) [Police use of force statistics, England and Wales: April 2020 to March 2021](#)

<sup>22</sup> See the case study of Sophie, a disabled 11-year old girl, in Children’s Rights Alliance for England (2016) [State of children’s rights in England: Policing and criminal justice](#)

<sup>23</sup> Home Office (2021) [Police use of force statistics, England and Wales: April 2020 to March 2021](#)

<sup>24</sup> Police Scotland (2021). [Response to Freedom of Information Request.](#)

<sup>25</sup> Police Scotland (2020). [Response to Freedom of Information Request.](#)

<sup>26</sup> Together (2020). [State of Children’s Rights Report.](#) p52.

<sup>27</sup> Topping, J. (2018) [Policy Briefing for the NI Executive Knowledge Exchange Seminar Series.](#)

<sup>28</sup> PSNI (2022). [Stop and Search Statistics.](#)

<sup>29</sup> The Detail (2022). [Calls for PSNI to stop strip searching children.](#)

<sup>30</sup> Home Office (2020) Police powers and procedures, England and Wales, year ending 31 March 2020.

<sup>31</sup> In August 2019

<sup>32</sup> CHSCP (2022) [Local Child Safeguarding Practice Review Child Q](#) and Dodd, V. and Quinn, B. (16 March 2022) [‘Met officers under investigation over strip search of girl at London school’](#) The Guardian

<sup>33</sup> Home Office (2020) [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice](#)

<sup>34</sup> This is still a significant underestimate as it only includes data from 34 out of the 43 police forces in England and Wales. Just for Kids Law (2022) [“It’s horrible when they keep you in there at night”](#); [Ending the overnight detention of children in police custody](#)

<sup>35</sup> This large decrease, the biggest in eight years is likely to be driven in part by the COVID-19 pandemic; with many children being home schooled for large parts of the year. Ministry of Justice and Youth Justice Board (2022) Youth Justice Statistics: England and Wales 2020-2021

overnight police custody (21,369 out of 58,939. 244 children aged 12 and under were held overnight and 9 children held overnight were just 10 years of age).<sup>36</sup>

### Children of incarcerated parents

Children of incarcerated parents have the right to maintain relations and direct contact while separated from their parents, provided this is in the child's best interests. Families are often not promptly assigned a social worker to complete an assessment regarding suitability of contact when a parent enters custody, leading to a significant gap in contact which detrimentally impacts on the child/parent relationship. This also affects preparation with the child for the incarcerated parent's release from custody. Significant numbers of children with an incarcerated parent are unknown to services and receive no support or advocacy.

### Recommendations referenced from the UK's UPR 2017 (3<sup>rd</sup> cycle)

134.205	Raise the minimum age of criminal responsibility in accordance to international standards and abolish the mandatory imposition of life imprisonment for offences committed by children under the age of 19	Albania Peru Belarus Bulgaria A/HRC/36/9/Add.1 = Para 3	Noted
134.134	Train public officials in human rights, in particular the police and the military, including on the excessive use of force	Ecuador A/HRC/36/9/Add.1 - Para. 3	Supported

### About us

#### Children's Rights Alliance for England (CRAE)

CRAE works with around 100 members to promote children's rights and monitor government implementation of the CRC in England. See: [www.crae.org.uk](http://www.crae.org.uk) Contact: [lking@crae.org.uk](mailto:lking@crae.org.uk)

#### Together (Scottish Alliance for Children's Rights)

Together is an alliance of almost 500 NGO and individual members that works to improve the awareness, understanding and implementation of the CRC in Scotland. See: [www.togetherscotland.org.uk](http://www.togetherscotland.org.uk) Contact: [juliet@togetherscotland.org.uk](mailto:juliet@togetherscotland.org.uk)

#### Wales UNCRC Monitoring Group

The Wales UNCRC Monitoring Group is a national alliance of non-governmental and academic agencies tasked with monitoring and promoting the CRC in Wales. It is currently facilitated by Children in Wales, the national umbrella organisation. See: [www.childreninwales.org.uk](http://www.childreninwales.org.uk) Contact: [sean.oneill@childreninwales.org.uk](mailto:sean.oneill@childreninwales.org.uk)

#### Children's Law Centre

The Children's Law Centre is a registered charity and specialist children's human rights centre in Northern Ireland, founded on the principles enshrined in the CRC. See: [www.childrenslawcentre.org.uk](http://www.childrenslawcentre.org.uk) Contact: [fergalmcferran@childrenslawcentre.org](mailto:fergalmcferran@childrenslawcentre.org)

<sup>36</sup><https://yjlc.uk/resources/legal-updates/report-ending-overnight-detention-children-police-custody-released>