



## AYJ response: Justice Committee Inquiry Future prison population and estate capacity

### Introduction

The [Alliance for Youth Justice \(AYJ\)](#) brings together over 80 non-profit organisations, advocating for and with children to drive positive change in youth justice in England and Wales. Our [members](#) range from large national charities and advocacy organisations, to numerous smaller grassroots and community organisations. We bring together the expertise of our members and provide ways for them to shape decision-making. We work to influence policy, legislation and practice to address issues affecting children caught up in crime.

We are submitting to this call for evidence in order to draw the Committee's attention to how the Ministry of Justice's current strategy for managing the adult prison population is impacting children and young people in the children's secure estate. It is not acceptable that failures in adult justice policy have been offloaded to create undue stress on the children's system.

### Background

Operation Safeguard started in November 2022 in response to capacity issues in the adult prison estate. Part of the Operation involved shifting the presumed date a young person transitions from youth to adult custody from the 18<sup>th</sup> birthday to 19<sup>th</sup> birthday.<sup>1</sup>

This change led to a rapid and significant increase in the number of young people aged 18 and over in youth custody. As per the latest published statistics (August 2023), there are currently 167 young people aged 18 or over held in the children's estate alongside 456 under 18's.<sup>2</sup> Most (but not all) of these young people will be held in Young Offender Institutions (YOIs). Therefore, by August 2023 statistics, 27% of the whole children's estate population and up to 35% of the YOI population are now young adults rather than children. By comparison, the average proportion of the children's estate population who were aged 18 and over was 12% between April 2020-November 2022, and 9% pre-pandemic.<sup>3</sup>

The number of young people aged 18 and over in the children's estate has quadrupled in the last year. While the number of children in custody has remained relatively stable (increased 1%), the overall number of children and young people in the estate has increased 27%.<sup>4</sup>

The young people being kept in the children's estate are not all those due to finish the custodial part of their sentence relatively soon. Young people on long custodial sentences that will transfer to the adult estate at some point anyway are also being held down.

The Prison Officers Association has for some time been calling for staff in the children's estate to be armed with PAVA spray. Due to a number of incidents in recent months in custody this pressure has now built and the Youth Custody Service and Ministry of Justice are putting advice to Ministers for an imminent decision on rollout. The Youth Custody Service has confirmed reports of General Purpose Dogs being deployed in a YOI as well as stun grenades or "flashbangs" being used which have struck children.

The number of children in custody is projected by the government to double in coming years due to the impact of the pandemic, changes to legislation, and the police officer uplift<sup>5</sup> – although we challenge the validity of this projection, which should be questioned and resisted.<sup>6</sup>

## Concerns

While we have longstanding concerns<sup>7</sup> about a system for children that is so often embroiled in crisis, developments since the imposition of Operation Safeguard require the Committee's attention. We share below (updated) text from an open letter with over 30 signatories sent to Minister Damian Hinds earlier this year, which sets out our concerns:<sup>8</sup>

We are gravely concerned about the appalling, potentially unlawful treatment of children and young people in custody, including prolonged solitary confinement, and reports of incidents putting children and young people at risk of serious harm, often driven by frustration at inadequate regimes and needs not being met. We are shocked that General Purpose Dogs and harmful devices are being deployed on children and young people in YOIs. We are dismayed that rather than putting the time and resources into addressing the root causes of children and young people's behaviour, policymakers are seriously considering arming custody staff with harmful irritant sprays to use on children.

The number of young people aged 18 or over currently being held in the children's secure begs the question: when does child custody cease to be custody for children? 18 year olds transitioning into the adult custodial estate face a frightening cliff edge, and outcomes for young adults in custody are deeply concerning. We do not deny that, where 18 year olds are approaching the end of their sentence and an individualised approach is taken, remaining in the children's secure estate may often be preferable and vital for their wellbeing. However, concern for 18 year olds is not why the policy decision to increasingly keep them in the children's estate was made. Nor was the decision made because it had been deemed the children's estate was in a good, fit state to meet the needs of the children held there as well as a rapidly increasing population of young adults. Rather, the decision was purely based on capacity failures in the adult estate.

With the right child-focussed assessments, resourcing, timing and care put into it, and – crucially - on a case by case basis, a carefully planned move to allow more 18 year olds to finish out their sentence in the children's estate wouldn't be ringing the alarm bells that are ringing now. But as it stands, the children's secure estate was already in crisis,<sup>9</sup> struggling to cope with the children in its care, and unprepared for the change thrust upon them without due notice. In the months since Operation Safeguard came to be, the children's secure estate has been rapidly overloaded, by all accounts the treatment of children and young people has deteriorated, and the Youth Custody Service is resorting to desperate measures.

It is clear that the children's secure estate cannot meet the needs of children and young people. It cannot cope with an increasing population, let alone while also grasping the different considerations needed for over 18s. It is totally unjustifiable that children should see their standards of care fall even further, that they should be subjected to PAVA spray and the hardening and adultifying of the estate such a rollout would represent, as failures in adult justice policy have been offloaded to create undue stress on the children's system. We have already seen five Urgent Notifications for the children's secure estate in just four years. Without a clear strategy and urgent action, it is only a matter of time before the next.

## Our calls

- **The Ministry of Justice and Youth Custody Service must publish clear information about future plans for holding young people aged 18 and over in the children's estate**, including forecasts and targets, how long Operation Safeguard will be in place, and the assessment of its impact on children and young people in custody.
- **Publish Equality Impact Assessments and Child Rights Impact Assessments** relating to the changing of transition dates from youth to adult custody.

- **Publish the monthly Youth Custody Data disaggregating under and over 18s** regarding ethnicity, legal basis for detention, gender, looked after/care leaver status, and type of establishment.
- **Urgently develop a national strategy and improvement plan for youth custody**, developed with full and open consultation, which sets out a comprehensive, long-term vision for children in custody, and includes steps to prevent the number of children in custody increasing in coming years, and clear timescales for achieving the government's 2016 commitment to phase out YOIs and Secure Training Centres.
- **PAVA spray must not be rolled out in the children's secure estate.** It is contrary to best interests and welfare principles for the care of children, will undermine relationships between children and staff and further damage the culture in YOIs, and given use of force in youth custody and use of PAVA spray in adult custody is racially disproportionate, it will highly likely be disproportionately used on Black and racially minoritised children. The Council of Europe is clear that due to its potentially dangerous effects PAVA spray should never be used in confined spaces.<sup>10</sup>
- **The use of General Purpose Dogs and pyrotechnics in the children's secure estate must be banned**

**Please note the contents of this document do not necessarily reflect the views of all AYJ members.**

<sup>1</sup> <https://committees.parliament.uk/publications/33331/documents/180392/default/>

<sup>2</sup> <https://www.gov.uk/government/publications/youth-custody-data>

<sup>3</sup> <https://www.gov.uk/government/publications/youth-custody-data>

<sup>4</sup> <https://www.gov.uk/government/publications/youth-custody-data>

<sup>5</sup> <https://www.nao.org.uk/wp-content/uploads/2022/04/Children-in-custody-secure-training-centres-and-secure-schools.pdf>

<sup>6</sup> <https://www.ayj.org.uk/news-content/crises-and-crossroads-policy-briefing-publication>

<sup>7</sup> <https://www.ayj.org.uk/news-content/crises-and-crossroads-policy-briefing-publication>

<sup>8</sup> <https://www.ayj.org.uk/news-content/open-letter-calls-for-urgent-government-action-to-prevent-crises-in-the-childrens-secure-estate>

<sup>9</sup> <https://www.ayj.org.uk/news-content/crises-and-crossroads-policy-briefing-publication>; <https://www.justiceinspectors.gov.uk/hmiprison/inspections/hmyoi-cookham-wood-9/>; <https://www.gov.uk/government/publications/hm-chief-inspector-of-prisons-annual-report-2022-to-2023>; <https://www.ayj.org.uk/news-content/2ordxryq0il58vscr40dbjy4dlob3h>;

<https://www.ayj.org.uk/news-content/ayj-comment-a-thematic-review-of-outcomes-for-girls-in-custody>  
<sup>10</sup> <https://rm.coe.int/168070a773>