

AYJ response: Youth Custody Service draft Policy Framework on 'Safeguarding and child protection in the Youth Custody Service'

About the Alliance for Youth Justice

The [Alliance for Youth Justice \(AYJ\)](#) brings together over 75 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 smaller grassroots and community organisations. We bring together our members' expertise 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.

This submission was prepared for the AYJ by its member, the Prison Reform Trust, with additional content provided by four other member organisations, one associate member, and the AYJ's staff team. It has been approved for submission by the Chair and Director of the AYJ.

Our response to the draft 'Safeguarding and child protection' framework.

Introduction.

We welcome the ambition that underlies the drafting of the 'Safeguarding and child protection' framework, as well as the consultation around the current draft. **It is our strongly held belief that the more open the Youth Custody Service (YCS) can be about the very significant challenges that it faces, about which we are not unsympathetic, the stronger the Service will be able to perform.**

Regrettably we must also observe that the current draft policy framework is significantly flawed for the reasons we list below. We would observe that had there been an opportunity for our members to contribute at an earlier stage in the drafting of the framework we believe that a significant number of our criticisms made below could have been averted.

Safeguarding in youth custody is about more than just the Youth Custody Service.

Safeguarding in youth custody is about more than just the YCS or the other primary custody providers with whom the YCS contracts. It follows from this that a satisfactory policy framework needs to cover those other organisations and professionals who are part of the protective mechanisms that protect children in custody. The current draft policy framework does not, in the main, describe these organisations and professionals and is therefore fundamentally flawed.

Our suggestions: The next draft should cover the operation of other agencies with responsibilities towards children in custody, including both the Local Safeguarding Children Partnerships (LSCPs) for the areas in which the custodial institutions are located.

Space should also be taken to spell out the responsibilities of Youth Offending Teams and Children's Services (where a child is in local authority care) as well as other organisations including the local Police and NHS bodies with responsibility for children in custody.

The Safeguarding policy framework needs to be prepared in the context of 'Working Together'.

Any new safeguarding policy framework needs to be prepared in the context of 'Working Together'. Without an explicit recognition of this, which the current draft policy framework fails to provide, any policy gives the impression that children in custody lack the same protections as children in the community, especially those in schools for whom many of the risks are very similar.

Our suggestions: We believe that the new policy framework needs to continually cross reference itself with 'Working Together' and needs to be acknowledged as part of the sheath of documents issued under the terms of 'Working Together'. This leads us to question whether the YCS, as the major provider of services, is the right body to be seeking to regulate its own conduct in this way.

We believe the framework should be produced and endorsed by the Department for Education.

The Safeguarding policy framework needs to acknowledge, explicitly, the policies and commitments contained in the United Nations Convention on the Rights of the Child.

The Safeguarding policy framework needs to acknowledge, explicitly, the policies and commitments contained in the United Nations Convention on the Rights of the Child (UNCRC) to which the UK Government is a signatory. At the moment the draft policy framework does not recognise this, which we believe is a fundamental flaw. We believe that the Safeguarding Policy framework should explain how the Government proposes to meet the requirements of the UNCRC.

Our suggestion: The policy framework should reference to UNCRC and should explain those provisions within it that respond to the Convention.

The Safeguarding policy framework needs to explicitly acknowledge the over-representation of Black and racially minoritised children in custody, as well as groups of children with particular vulnerabilities.

The Safeguarding policy framework does not explicitly acknowledge the over-representation of Black and racially minoritised children in custody, as well as the position of some groups of children with specific vulnerabilities (although it does refer to children with special education needs and disabilities, to children requiring mental health support, to looked after children, and to care leavers, all of which references we welcome).

The over representation of children from racialised minorities is an acknowledged fact, yet one to which the draft policy framework makes no mention, a significant omission. The draft has a marked tendency to treat all children as the same, yet this is clearly not the case.

A related theme is that the policy framework does not examine the intersectionality of groups of children in custody. We write here with the position of girls in custody very much in mind, and with the dilemmas faced by LGBT+ children, but there will be other groupings that require specific responses to be kept safe.

In addition one of our members specifically made the following comment about another group of children with particular vulnerabilities: “Complex post-traumatic stress disorder (complex PTSD, sometimes abbreviated to c-PTSD or CPTSD) is a condition where you experience some symptoms of PTSD along with some additional symptoms, such as: difficulty controlling your emotions, feeling very angry or distrustful towards the world...This brings together the classic PTSD symptomatology but also highlights the impact on relationships and sense of self which is often forgotten in the custodial estate.”

Issues in respect of particular groups of children extend beyond just an acknowledgement of their needs. We would welcome more detail on the barriers to meeting these. A commonly expressed view is about the availability of facilities in YOIs. Illustrating this, one member wrote: “Would [it] be possible to highlight that secure settings must provide time and place for mental health interventions to take place. In the YOI where I work, mental health needs are consistently not prioritised, there are very few confidential spaces, and sessions are cancelled last minute.” In our experience this is a commonly heard comment, so the issue is not just about listing needs but also explaining in the *Policy Framework* how the YCS might overcome such common problems.

Our suggestions: The Policy framework needs to acknowledge that there are very significant variations in the position of different groups of children in custody. One size does not fit all. The issue of race and racism has been with us for a very long time and needs to be addressed immediately, with clear measures described to safeguard children from abuse arising from racism and prejudice.

If the YCS does not feel able to address properly all other issues arising from intersectionality at this stage, it should acknowledge this and briefly set out a time scale in which these will be covered.

The Safeguarding policy framework needs to acknowledge that a significant element of risk to children in custody is occasioned by the behaviour of some of the adults who are charged with their care.

The Safeguarding policy framework needs to acknowledge that a significant element of risk to children in custody is occasioned by the behaviour of some of the adults who are charged with their care. Approximately a third of safeguarding referrals in custody relate to the behaviour of some of the adults who are charged with their care. These risks can arise from deliberate or casual actions or from acts of omission. The draft *Policy Framework* does not acknowledge this explicitly and pays much more attention to the risks

that children constitute to each other. This is a fundamental omission that needs to be rectified if the framework is to be seen as a comprehensive document.

The policy framework does provide some welcome details on HR policies, with the implication that if these are improved staffing capability will be improved and with it children kept safer. However, more than one of our members doubted whether current practice was anywhere near compliant with the standards described in the policy framework. For example, one member wrote that it was their understanding that “interviews are not conducted to recruit to posts. [H11] seems to speak around it, which perhaps confirms this ... Interviews are an opportunity... all staff should be interviewed before being offered a post working with children.”

Our suggestions: The policy framework should acknowledge the risk that errant staff constitute, should itemise from the YCS’ own experience and that of others (see next issue) the main areas of such risk, and should set out measures explicitly designed to reduce such risk.

References to the way in which HR processes should be conducted need to be written in the knowledge that these are not necessarily current practice and will therefore need added attention and impetus to reform practice.

There is a growing official literature on safeguarding failures in custody, but the draft does not appear to represent a consistent response to this.

There is a growing official literature on safeguarding failures in custody, but the draft does not appear to represent a consistent response to this. These sources include the YCS itself (2022 report that cites eleven key learning points, together with 65 subsidiary detailed points), the Sheila Durr 2022 review on Oakhill Secure Training Centre, and separate independent reports commissioned by the Medway Local Safeguarding Children Board (LSCB) and then Safeguarding Children Partnership (MSCP) in 2017 and 2022 respectively under the provisions of ‘Working Together’. We are also aware that the YCS has also sponsored other reports that are not in the public domain, but which would provide a rich source of experience in this matter.

Our suggestion: Such reports need to be referenced and a careful check made to see that all the recommendations made in these documents (and any similar ones of which we are unaware) are covered in the policy framework. In our view this is far from the case now.

The Safeguarding policy framework needs to acknowledge that the voice of children in custody should prompt a significant element of the content of the framework.

The Safeguarding policy framework needs to acknowledge that the voice of children in custody should prompt a significant element of the content of the framework. As things stand it is not apparent that the YCS has consulted the children in their custody at all in respect of the drafting of the policy framework. This needs to be rectified.

When doing so the YCS will become immediately aware that children consistently refer to the operation of restraint in Young Offender Institutions (YOIs) and the Secure training Centre (STC) as one major source of their concerns about safeguarding. The absence of references to the operation of restraint systems is a major flaw in the current draft.

Our suggestions: The YCS should commission a children's rights/advocacy organisation to consult children currently in custody or who have recently left (and who therefore may be able to participate more freely) on the content and scope of a draft Policy framework.

Within custodial institutions the operation of independent children's in custody representation bodies is but one of several protective measures that a more complete policy framework should champion, as is the active involvement of children in staff recruitment, something that is not mentioned at all in the current draft Policy framework.

The operation of Restraint in custody needs to be covered in the draft policy framework.

The operation of restraint in custody needs to be covered in the draft policy framework. We found it strange that this is not mentioned at all in the current draft, not only because it is the child's experience that some approaches to restraint ('twisting up') are experienced by children and some staff as abusive, but because specific elements of the 'curriculum' of current restraint system (Managing and Minimising Physical Restraint – MMPR), notably the deliberate use of pain to secure compliance in certain situations, are seen by the great majority of people outside the YCS as constituting child abuse.

Our suggestions: The policy framework should acknowledge the risks that the operation of Restraint systems constitute in terms of safeguarding and should describe the mechanisms for monitoring and minimising these that the institutions themselves, their LSCPs, and the YCS nationally need to have in place.

The results of such monitoring need to be included in annually available public reports.

Additional notes from members

In addition to these main themes, our member UNLOCK provided some specific comments that we felt were worth highlighting. here

“**Regulation 44 visit**’ is listed in Annex A which is the ‘Glossary and Key Terms’. However, there is no mention of Reg.44 in the actual framework. Would be useful to reference this as a mechanism to support good safeguarding practice and emphasise the importance of independence of the visit and assessments.”

“The only mention of **advocates** is in Annex I about pre-appointment vetting. You could argue this misses a trick as there is a statutory entitlement to advocacy for looked after children in England and Wales which should be emphasised within the framework. Advocates could be referenced both as someone who will safeguard children as part of their role, and/or as an entitlement that children in need of safeguarding should be made aware of.”

“[Not] enough is in the framework around **adultification and unconscious bias**. Especially important bearing in mind the recent strip searches in the police of young children.”

“... importance of **family contact as a tool to safeguard young people especially with trauma and mental health issues**. The children commissioners report makes very sad reading that so many young people are not receiving contact with family/ friends on a regular basis and that a number of visits are being cancelled due to staffing shortages etc.”

“ the document should provide clear guidance on **how criminal record checks should be carried** out to ensure appropriate safeguarding. For example, policies should be in place setting out what DBS checks are needed for specific roles and how to store any information collected via checks.”

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