

Westminster Hall Debate – Abolishing child imprisonment
Tuesday 25 June 2019, 2.30pm

Article 39 is a registered charity which fights for the rights of children living in state and privately-run institutions. Founded in 2015, we take our name from the part of the United Nations Convention on the Rights of the Child which entitles children who have been abused or neglected to recover in environments where their health, self-respect and dignity are nurtured.

We are a member of the End Child Imprisonment campaign steering group which has produced a joint briefing for this debate. Article 39's briefing focuses on some of the most serious child protection and children's human rights concerns.

As long ago as 1997, the then Chief Inspector of Prisons Lord Ramsbotham urged the removal of children from prison service institutions, explaining "The Prison Service is essentially an organisation for adults, neither structured nor equipped to deal with children. It is the plight of children that alarms us most..."¹ In May 2004, the coroner presiding over the inquest into the death of 16 year-old Joseph Scholes in a young offender institution took the highly unusual step of writing to the then Home Secretary asking that a public inquiry be established to consider, among other things, the availability and provision of local authority secure children's homes.²

A public inquiry was never established into Joseph's death – or any of the other 33 children who have died in prisons since 1990 – and it took until December 2016 for the UK Government to admit that prisons cannot be made fit for children; responding to a review of the youth justice system, Ministers agreed that young offender institutions and secure training centres should be phased out.³ No timetable has followed and there is a distinct lack of urgency in transferring children to community settings or to secure childcare establishments when a period of deprivation of liberty is absolutely necessary.

Latest official data shows there were 727 children detained in young offender institutions and secure training centres in April 2019. These are institutions which the Youth Justice Board conceded were not fit for purpose in 2016/17 – after they had been responsible for them for several years.⁴

Only 1 in 10 children remanded or sentenced to custody is held in a local authority-run secure children's home – childcare establishments which are required by law to meet all of children's needs. Even places which central government has purchased in secure children's homes are not being used: as at 31 March 2019, the Ministry of Justice's Youth Custody Service was using only 66 (62%) of 106 contracted places.⁵

The pledge to phase out young offender institutions and secure training centres in December 2016 was in response to a review undertaken by Charlie Taylor, before he became the Chair of the Youth Justice Board. The review was launched a few months ahead of a damning undercover BBC Panorama exposé of serious child abuse in Medway secure training centre, which was then managed by G4S. Staff were filmed verbally and physically assaulting children. One manager boasted of stabbing a child's leg and arm with a fork, another recounted deliberately winding up

a child so he could physically assault him and a third was caught on camera forcing a crying child to repeatedly denounce his favourite football team. A group of staff were filmed discussing fabricating a 'restraint' incident. It later transpired that the Youth Justice Board had 35 separate whistle-blowing (digital) documents in respect of this institution dating back seven years.⁶ The Independent Inquiry into Child Sexual Abuse reported in February 2019 that there were 44 alleged sexual abuse incidents in Medway secure training centre between October 2012 and February 2017.⁷

It is notable that Winterbourne View private hospital for people with learning disabilities was closed down within a month of a similarly shocking BBC Panorama programme. The ringleader in that abuse had formerly worked in a young offender institution and was shown telling his colleagues how he would 'wind up' children so he could 'restrain' them.

Instead of closing down Medway secure training centre, the Ministry of Justice intends to use the site as its first experimental secure school. Secure training centres themselves were promised as centres of excellence in the care and education of children⁸ - 20 years later, the strong warnings from the children's and penal reform sector very regrettably have been proven apposite. Thousands of children have suffered in the intervening period: in January 2012, the High Court found systemic unlawful restraint from when the centres opened.⁹ Two boys, Gareth Myatt and Adam Rickwood, died following restraint in secure training centres in 2004.

The announcement in October 2018 that Medway secure training centre would be refashioned as a secure school was made three months before the publication of the serious case review into child abuse there. It is implausible that lessons had been learnt given the scale and level of failure by local and national agencies, as well as G4S.¹⁰ Inspectors continue to rate the centre as 'requires improvement' for child safety.¹¹

There have been many other revelations of abuse and neglect since the Panorama programme in January 2016, including:

- In December 2018, two prison officers at Wetherby young offender institution were jailed for the assault occasioning actual bodily harm of a 17-year-old boy. The judge said the officers subjected the boy to a "frenzy of violence" which was "downright brutal", with one holding the boy's arms behind his back while his colleague punched his face. The officers initially denied the charges stating they had simply restrained the boy. They deliberately took the boy to an area of the prison known to lack CCTV cameras. One of the officers had nearly 20 years' experience in the prison service.¹²
- Between 2013/14 and 2017/18, at least 81 members of staff working in 3 juvenile young offender institutions were subject to disciplinary action. The data released by the Ministry of Justice in December 2018 was incomplete and did not include reasons for the disciplinary action, which is apparently not collected centrally.¹³ This is a remarkable admission in view of the Independent Inquiry into Child Sexual Abuse's finding (first made public in July 2018) of 1,070 alleged incidents of sexual abuse in custodial institutions between 2009 and 2017, the majority of them in young offender institutions and secure training centres.¹⁴
- At the end of February 2019, the Independent Inquiry into Child Sexual Abuse reported that "the use of pain compliance techniques should be seen as a form of child abuse, and that it is likely to contribute to a culture of violence, which may increase the risk of child sexual

abuse". It recommended the prohibition by law of pain-inducing restraint.¹⁵ The Government has yet to respond to this recommendation, apparently relying on the conclusions of Charlie Taylor who has been reviewing the Ministry of Justice's policy on pain-inducing restraint since October 2018 (though the review was announced five months before this). Article 39's view is that, at the very least, Taylor's terms of reference should have been amended to providing advice to Ministers on how to implement the public inquiry's recommendation. In April 2019, the Joint Committee on Human Rights repeated its opposition to pain-inducing restraint. The UN Committee Against Torture, the European Committee for the Prevention of Torture, the UN Committee on the Rights of the Child, the UK's four Children's Commissioners, the Association of Directors of Children's Services, the Royal College of Psychiatrists and the NSPCC are among the very long list of organisations opposed to pain-inducing restraint. Such treatment is not permitted in education, health or social care settings.

- In December 2018, the British Medical Association, along with the Royal College of Psychiatrists and Royal College of Paediatrics and Child Health, publicly called for the end of solitary confinement in child prisons. Guidance from the BMA to doctors said: "We are increasingly concerned by reports of solitary confinement being used to manage children and young people at risk of self-harm or suicide, or experiencing other mental health crises. The environment of the segregation unit is a far from therapeutic environment for individuals experiencing a deterioration in their mental health".¹⁶ The Government had previously released data showing children in England's four juvenile young offender institutions had spent 546 hours in segregation between January and March 2018 alone.¹⁷
- In January 2019, latest data on the use of restraint in child prisons was published. This showed the average rate of use of force every month was 52.4 per 100 children. In Rainsbrook secure training centre, the rate was a staggering 95 per 100 children and in Medway secure training centre it was 93.5 per 100 children.¹⁸ The message to children entering these institutions is clear: there is only a minimal chance that you will not be subject to physical restraint.
- Annual statistics published by the Ministry of Justice only include injuries which are recorded as requiring medical or hospital treatment. The full extent of restraint leading to child injuries was revealed in a Parliamentary written answer in April 2016. This showed 4,092 restraints in young offender institutions and 2,583 restraints in secure training centres which resulted in children being injured between 2007 and 2015. The data revealed that secure training centres had a much higher rate of restraints leading to child injuries: an average of 81 incidents per year per institution in each of the eight years. The average for juvenile young offender institutions was 48; and for secure children's homes the average was 13 child injuries following restraint per home per year.¹⁹
- In December 2017, the Independent Monitoring Board (IMB) for Cookham Wood young offender institution in Kent reported that "Keeping boys with very severe mental health difficulties at Cookham Wood is inhumane: they cannot be properly supported here with insufficient appropriate specialist healthcare staffing". Reflecting on 312 visits made to the prison between August 2016 and July 2017, the Board's annual report explained that four boys desperately required mental health care outside the prison but remained incarcerated because there was no specialist provision for them elsewhere. The Board analysed the time spent by boys out of their cells over a one month period. They found the average was just 4-5 hours during the week and 2 hours at weekends. This was largely due to insufficient staffing. The effects were damaging for both children and staff: "Boys tell the IMB that it is

the unpredictability of their regime which they find particularly upsetting. They do not blame the officers. Indeed, the IMB finds that day-to-day relationships between officers and boys are good, which is strong testimony both to the professionalism and sensitivity of the officers and the patience and understanding of the boys. But many boys say that repeated regime restrictions make them angry and upset. In some boys, anger can lead to violence, and to officers being injured, which in turn exacerbates the staff shortage".²⁰

- In the 12 months to 31 March 2018, there were 368 injuries requiring medical treatment following self-harm in young offender institutions and secure training centres – a 239% increase from the previous year.²¹ The latest inspection report on Feltham juvenile young offender institution (June 2019) notes that "In about half the cases, we observed interactions between staff and children on open ACCTs [Assessment, care in custody and teamwork – the process by which children at risk of suicide and self-harm are looked after] which were of good quality. Children were given distraction packs and had contact with therapy pets and additional support from agencies, including the chaplaincy. However, other children at risk of harm spent long periods locked in their cells with little to occupy them. All units had access to Samaritans telephones". Inspectors observed: "it would have been better if such children were not locked up".²²

A health professional recently contacted Article 39 to tell us about the plight of seriously unwell boys waiting to be transferred from prison to mental health hospital care. These boys often spend weeks locked up in bare cells with Perspex doors through which they are constantly watched by prison officers sitting outside their cell doors in shifts.

Boys aged 15-17 can be confined to their cells for 22 or 23 hours a day and are only allowed out for short supervised periods of fresh air and exercise, during which they are prevented from engaging in meaningful contact with their peers. Prison staffing shortages mean children are routinely unable to attend scheduled and planned health appointments within the prison – both for physical and mental healthcare; when doctors are especially worried, they will visit children on the wings but even then they are often only permitted to simply talk through a hatch at the cell door and carry out their assessment of the child's condition at the time by observation only.

The health professional told us that being confined to a cell for 22 or 23 hours a day with little or no meaningful human contact would be enough to induce a mental or nervous breakdown – including the very real possibility of paranoid psychotic mental states – in the overwhelming majority of child prisoners. For those with pre-existing serious mental health difficulties, this inhumane and counter-therapeutic prison regime causes extreme suffering and distress, and very often leads to life threatening self harm and suicidal behaviours. Article 39 is aware of at least one acutely psychotic boy who had been confined in this manner for a protracted period in his cell, stripped of all his personal belongings, meaningful occupation and regular human contact. The child was talking to himself, shouting and laughing in a delusional state and he clearly required urgent in-patient care and treatment. He was forced to wait more than four weeks for a suitable hospital placement to be secured before he was transferred out of prison.

It is our firm view that child prisons are irredeemable. They are from a past era when the needs and rights of imprisoned children were unrecognised. Despite concerted efforts over the past two decades especially, they remain unsafe and unworthy of children.

We would not today design institutions for the systematic deprivation and harm of vulnerable children. Our international obligations under the Convention on the Rights of the Child and the ambitions we believe all political parties hold for children in trouble with the law – that they are safe, well cared for, educated and rehabilitated – cannot be fulfilled while we hold onto these archaic and damaging institutions.

¹ Her Majesty's Inspectorate of Prisons (1997) Young prisoners - a thematic review by HM Chief Inspector of prisons for England and Wales.

² See [2006] EWCA Civ 1343.

³ Ministry of Justice (December 2016) The government response to Charlie Taylor's Review of the Youth Justice System.

⁴ Youth Custody Improvement Board (February 2017) Findings and recommendations of the Youth Custody Improvement Board.

⁵ Department for Education (June 2019) Children accommodated in secure children's homes at 31 March 2019: England and Wales. Table 1.

⁶ Medway Improvement Board (March 2016) Final report of the Board's advice to Secretary of State for Justice.

⁷ IICSA (February 2019) Sexual abuse of children in custodial institutions: 2009-2017 investigation report.

⁸ See this from March 1993: <https://publications.parliament.uk/pa/cm199293/cmhansrd/1993-03-02/Debate-1.html>

⁹ R (on the application of) The Children's Rights Alliance for England -v- The Secretary of State for Justice and others.

¹⁰ The serious case review overview report can be found here:

<https://www.mscb.org.uk/mscb/downloads/file/167/2019---mscb---medway-stc-overview-report>

¹¹ Inspection reports can be found here: <https://reports.ofsted.gov.uk/provider/11/1027076>

¹² See press reports: <https://www.bbc.co.uk/news/uk-england-leeds-46429290> and

<https://www.yorkshirepost.co.uk/news/prison-officers-jailed-over-punishment-beating-of-17-year-old-at-wetherby-young-offenders-institution-1-9474217>

¹³ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-12-11/201208/>

¹⁴ IICSA (February 2019) Sexual abuse of children in custodial institutions: 2009-2017 investigation report.

¹⁵ IICSA (February 2019) Sexual abuse of children in custodial institutions: 2009-2017 investigation report.

¹⁶ BMA (December 2018) The medical role in solitary confinement. Guidance for doctors working in the youth justice system.

¹⁷ Parliamentary Question answered 29 October 2018:

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-05-03/141024/>

¹⁸ Ministry of Justice and Youth Justice Board (January 2019) Youth justice statistics 2017/18. England and Wales. Table 8.23: Use of force incidents by month, year ending March 2018.

¹⁹ Our full analysis can be seen here: <https://article39.org.uk/2016/04/08/7784-restraints-led-to-injuries-in-child-custody-2007-2015/>

²⁰ Annual Report of the Independent Monitoring Board at HMYOI Cookham Wood, December 2017.

²¹ Ministry of Justice and Youth Justice Board (January 2019) Youth justice statistics 2017/18. England and Wales. Table 8.12: Number of injuries requiring medical treatment(1), as a result of a self harm incident, by sector, years ending March 2012 to 2018.

²² Her Majesty's Inspectorate of Prisons (June 2019) Report on an unannounced inspection of HMYOI Feltham A children's unit.