The case for ending child imprisonment

questions & answers
Introduction

Children from black, Asian and minority ethnic communities occupy every second prison cell in the child secure estate. More than half the children detained in prisons have been in care, over a quarter are disabled and more than a third have health problems.

Imprisoning highly vulnerable children in institutions which official bodies have acknowledged to be unfit for purpose undermines the potential of those children and exacerbates what brought them into custody in the first place. It also excuses successive governments from tackling wider racial, social and economic injustices, and it breaches many aspects of the United Nations Convention on the Rights of the Child (UNCRC).

The End Child Imprisonment campaign seeks the closure of all child prisons in England. This does not mean that children will never be deprived of their liberty. Instead, we would have welfare-based and human rights-compliant secure establishments for the very small number of children who pose a serious risk to others and cannot, for a period of time, live safely within the community. If our longstanding international and domestic law obligations were met, far fewer children would find themselves in crisis situations where deprivation of liberty could ever be deemed legitimate.
In December 2016, the government committed to phasing out child prisons. It has not yet published any strategy for achieving this and the pace of change is far too slow. Since the government pledged to phase out child prisons, there has been only one relevant policy announcement; the opening of Oasis Restore secure school, which is controversially to be housed on the former site of Medway secure training centre (most recently an adult prison), in 2022. If current numbers of children in custody stay the same, at this rate of government (in)action it would take at least another half century for child prisons to close.

We have produced this document as our contribution to accelerating the closure of child prisons and the end of child imprisonment. The paper describes how to:

- significantly reduce the number of children in custody;
- increase effective support and supervision within children’s families and communities; and
- provide secure establishments which get to the root causes of children’s behaviour.

This has become more urgent than ever during COVID-19. At the time of writing, imprisoned children have spent less than two hours per day out of their cells (some as little as 40 minutes) for 15 weeks and more. That’s 2½ times the length of the school summer holidays; a desperately long time. When inspectors visited Rainsbrook secure training centre at the end of October, they found that children were being held in their cells for 23.5 hours a day for a two-week period on first admission, which they said “is tantamount to solitary confinement”. The harm caused to those children – indeed to all children in prison during the pandemic – could be irrevocable, certainly within their childhoods.
In 2019, we published ‘Principles and minimum expectations for children deprived of their liberty’, which sets out a framework for providing high-quality care, support and guidance to all detained children (and their families and caregivers). Our framework applies for all children, irrespective of whether their detention was officially authorised through a criminal justice, social care or health route. Research for NHS England highlighted that children who are deprived of their liberty share many of the same needs and come from similar backgrounds and that there is no evidence-based explanation for the existence of two very different parallel pathways via the penal and child welfare systems. The authors observed:

*On speaking, informally, to clinicians and carers, it is not always clear why a young person is detained under one type of legislation or that the needs of those in one type of secure establishment are that different from the needs of those in another.*

Our proposals require significant and urgent investment in safe, caring and effective establishments; building on the best elements of secure children’s homes, therapeutic communities, residential schools and child and adolescent mental health units but going much further. We must get rid of the barbed wire and the punitive ethos that have characterised repeated attempts to meet the needs of children in a modified version of the adult prison system. This simply doesn’t work.

It is more than 20 years since the Youth Justice Board first pledged a specialist secure estate for children. Children are no longer incarcerated alongside adults (though there is not complete separation – children are sometimes mixed with adults in court cells and prison transport, and there can be crossover in prison healthcare and exercise yards). However, physical separation alone falls far short of what is required to adequately meet the needs of children. Our framework is a genuine break with the prison system.
We reject punishment as a mechanism for changing children’s behaviour if it infringes the criminal law – in principle, because no civilised society should ever want to deliberately cause children to suffer; and, pragmatically, because it doesn’t work. The vast majority of children sent by the criminal courts to custody have already endured great disadvantage and those who work in the system know only too well the trauma and suffering which most children bring with them to prison. We agree with Charlie Taylor’s observation that, “Almost all of the causes of childhood offending lie beyond the reach of the youth justice system”. More than half the children (56%) sentenced to custody in 2018/19 were found to meet (and/or previously to have met) Children Act 1989 welfare definitions of a child in need.

The restraint-related deaths of 15 year-old Gareth Myatt and 14 year-old Adam Rickwood could have been avoided – as could the suffering of many thousands of other children in secure training centres (STCs) – had Ministers in the 1990s, when STCs were first introduced, heeded warnings from the UN Committee on the Rights of the Child, children’s charities and penal reform groups that these institutions were both unnecessary and incapable of meeting children’s needs. History has an awful tendency of repeating itself when it comes to the state launching new ways of locking up children, and without exception it has always been children who have suffered the consequences.

Note: End Child Imprisonment is a national campaign in England. Much of the case for change we set out here could equally apply to child prisons in Scotland and Wales.
FREQUENTLY ASKED QUESTIONS

Closing child prisons is both urgent and necessary. But we recognise that it involves addressing a range of philosophical and practical challenges. Here we attempt to answer some of the most frequently asked questions about what the abolition of child imprisonment means.

1. How do you define child prison?
2. What do you mean by the abolition of child prisons?
3. Where are children detained now and why is that wrong?
4. Are you saying secure children’s homes are better than young offender institutions and secure training centres?
5. What about children who commit very serious offences or pose a risk to the public?
6. What about the needs and rights of those affected by crimes committed by children?
7. What about older children?
8. What about children who are given long sentences, which means they have to move to adult prisons in the future?
9. If child prisons are closed, what will we put in their place?
10. How many establishments will be needed, and what will this cost?
11. Are secure schools the answer?
1. **How do you define child prison?**

A child prison is an institution which:

- Is governed by prison law;
- Is designed and built to prison specifications (including capacity);
- Is part of the wider prison complex, meaning that the site was formerly a prison and/or there are other prisons close by;
- Has uniformed staff whose recruitment, training and professional identity emphasises detention and control;
- Follows the operating rules, systems and practices of adult prisons, or a modified version of these; and
- Is administered by the same government department responsible for adult prisons rather than a department responsible for services to vulnerable children.

These are our six child prison tests. If an establishment meets all, or most of these tests, then we would consider it to be a child prison.

There are two types of child prison in England today – juvenile young offender institutions and secure training centres.
2. **What do you mean by the abolition of child prisons?**

Abolition means the closure of all juvenile young offender institutions and secure training centres (and any future establishments that would meet the criteria of a child prison in Question 1). This is necessary to protect children and to address the causes and consequences of their harmful behaviour.

Abolition of child prisons does not mean that children will never be deprived of their liberty. We recognise that there will be occasions when deprivation of liberty will be necessary (through the criminal justice route) when there is clear evidence that children pose a serious risk to others and there are genuinely no alternative options for mitigating that risk in the community. However, in the small number of situations where deprivation of liberty is deemed to be justified, it must take place in a safe, welfare-based setting which is purposely designed to care for children with extensive needs, rather than to inflict punishment. It must be able to deal effectively with the causes of the harmful behaviour. Building on the best of our country’s secure children’s homes, therapeutic communities, residential schools and child and adolescent mental health units, past and present, our document ‘Principles and minimum expectations for children deprived of their liberty’ provides a framework for the way forward.
It is imperative that the abolition of child prisons goes hand-in-hand with a range of measures to significantly reduce the number of children subject to custody. These would include:

- Restricting the circumstances in which children can be remanded or sentenced to custody, in order to preclude the inappropriate deprivation of liberty for non-violent or persistent minor offending. This would be expected to reduce the numbers of children in custody by at least one-third.¹⁴

- Ensuring that custody is imposed for the shortest appropriate period and releasing children when they no longer pose a risk of serious harm to the public.

- Maximising good practice at a local level to ensure areas that have a higher use of custody can learn from those where deprivation of liberty is low. In 2019, for instance, 8.7% of court disposals (sentencing decisions) concerning children in Yorkshire and the West Midlands led to custody, whereas the figure in the South West was less than half of this at 3.4%.¹⁵

These strategic measures would lead to custody being used as a genuine last resort and would reduce considerably the capacity required in child welfare settings to accommodate those currently in child prisons.
3. Where are children detained now and why is that wrong?

There were 571 children in custody in England and Wales in August 2020. Of these, 90% were detained in prisons and just 10% (56 children) were held in secure children’s homes.\textsuperscript{16} The proportion of imprisoned children held in juvenile young offender institutions has actually risen since the government’s commitment to close these institutions, from 72% in April 2016 to 75% in April 2020.\textsuperscript{17}

England has six child prisons currently – four juvenile young offender institutions (Cookham Wood, Feltham, Werrington and Wetherby) and two secure training centres (Oakhill and Rainsbrook). Children from England can also be sent to a seventh juvenile young offender institution, Parc, which is in Wales and run by G4S as part of a larger prison complex.

A third secure training centre, in Medway, Kent, was closed in March 2020 and then, following the onset of COVID-19, quickly refashioned into an adult prison to alleviate the threat to life in overpopulated adult prisons. It is now awaiting redesign as the first pilot secure school.

Although there have been significant refurbishments, and in some cases full-scale rebuilding, juvenile young offender institutions derive from a completely different era. Two of the four in England were originally built as industrial schools for children in trouble with the law in the 1850s and 1860s, another was first opened as a borstal and the fourth was built as a prison for young men. These institutions were erected many decades before the UK signed up to its present legal obligations under the UNCRC\textsuperscript{18} that require an entirely separate approach for children, with services and interventions tailored to their age and stage of development. International standards require that juvenile justice systems are part of states’ wider services and provision for children, young people and families, rather than an adjunct to the adult penal system.\textsuperscript{19} It cannot be right that prison officers who never chose to have a career working with children, and were not recruited or trained for
such specialised work, are daily in charge of some of the most vulnerable children in our country. Unlike children’s homes (including secure children’s homes) which have extensive statutory protections that safeguard children from staff mistreatment, juvenile young offender institutions continue to operate broadly the same regimes as adult prisons when it comes to behaviour management and punishments. The government has refused to fully disclose details of restraint techniques used in child prisons because of the crossover with methods used in adult prisons; it claims publication could undermine security because adult prisoners might use the information to resist restraint. A recent internal review of safeguarding within child prisons, prompted by the Independent Inquiry into Child Sexual Abuse’s investigation, made more than 100 recommendations – a clear indication of the wholesale change required. Further, the review urges policy and practice frameworks (including in respect of safeguarding children) that are quite distinct from those of Her Majesty’s Prison and Probation Service.

Even secure training centres, which opened in the late 1990s and were proclaimed to be designed especially for children, were located near adult prisons and adopted pain-inducing restraint techniques and other harmful practices from the adult penal estate. The redesignation of Medway secure training centre as an adult prison due to COVID-19 shows how readily these institutions can be adapted for that purpose and how ill-suited they are to the particular needs of children.

The Ministry of Justice is responsible for all government policy concerning incarcerated children, including safeguarding. However, the words ‘child’ or ‘children’ do not feature in its statement of official responsibilities, implying that these same children are considered to be low priority.

The Independent Inquiry into Child Sexual Abuse investigated recent sexual abuse in custodial institutions, and found that penal practices such as strip-searching and pain-inducing restraint facilitate abuse. Of 469 alleged sexual abuse incidents in juvenile young offender institutions between 2009 and 2017, 57 (11%) occurred during a strip-search or restraint.
In January 2020, Her Majesty’s Inspectorate of Prisons published its review of the use of solitary confinement in child prisons. It recommended a completely new approach given the “magnitude” of failures in both how children are treated in solitary confinement and the Ministry of Justice’s oversight.\textsuperscript{26}

A recent review of the use of pain-inducing restraint – the deliberate infliction of pain by officers on children – found that it was deployed in child prisons as “an acceptable and normal response rather than what [it] should be, the absolute exception”.\textsuperscript{27} The government accepted the review’s recommendation that pain-inducing techniques no longer be part of the core restraint syllabus. But this unlawful and abusive treatment of children has persisted for decades and it took the threat of legal action to prompt the review. It would not be tolerated in families or in any other institutional setting.

Child prisons operate very similar – at times identical – cultures and practices to adult prisons. Secure training centres are the latest failed experiment. Ministers promised they would be run along the lines of secure children’s homes, with education at their core, but this was never a realistic possibility given that they were significantly larger than welfare-based establishments, had much lower staff-to-child ratios and embodied from the outset a philosophy of control and punishment. They have accordingly been beset by child protection scandals almost from the start.

Two children, Gareth Myatt and Adam Rickwood, died following restraint in these centres, and many thousands of others have been subjected to unlawful restraint. After whistleblowers and complainants were ignored for many years, an undercover reporter for BBC Panorama filmed serious child cruelty in one of the centres. A serious case review into that institution, Medway secure training centre, confirmed there had been widespread failures to protect children.\textsuperscript{28}
4. Are you saying secure children’s homes are better than young offender institutions and secure training centres?

Yes. Secure children’s homes are underpinned by a child care ethos and are much smaller in size than child prisons. They are staffed by qualified child welfare professionals, mostly run by local authorities as part of their children’s services (one is run by a charity) and achieve better outcomes in respect of children’s education. The Independent Inquiry into Child Sexual Abuse reported in 2018 that:

There is a consensus in the literature that [secure children’s homes] are the most child focused type of secure establishment with the care provided being more individualised and personal and homes being described as having a more informal, family atmosphere.

As Ofsted’s senior officer for the secure estate recently reported, during the COVID-19 pandemic, in contrast to juvenile young offender institutions and secure training centres, secure children’s homes have managed to maintain “an almost normal routine” eliciting “really positive feedback from children about how staff are looking after them and the care they are receiving”.

The government itself recognises that secure children’s homes are suitable settings for children, whereas child prisons are not: it plans to require secure schools, the proposed replacement for juvenile young offender institutions and secure training centres (see Question 11 below), to register and be inspected as secure children’s homes. Further, its recently published White Paper on sentencing states:

Secure Children’s Homes (SCH) come closest to delivering the principles of best practice in youth custody, being smaller than Young Offender Institutions (typically holding 8–34 children) and designed to provide a therapeutic environment.
5. What about children who commit very serious offences or pose a risk to the public?

Many of the children who are currently imprisoned have not committed serious offences and they do not pose a risk of serious harm to the public. In 2019, for instance, in spite of a marked decline in the number of children deprived of their liberty in recent years, children were still being sentenced to custody for shoplifting, possession of cannabis, stealing bicycles and breach of criminal behaviour orders (one of the successors to the anti-social behaviour order, ASBO). Between 2014 and 2016, more than one-third of custodial sentences imposed on girls were for non-violent offences. Clearly these children could have been dealt with in the community, as happens in the vast majority of other European countries.

That there exists a small number of cases where the demonstrable risk posed to the public renders it necessary to restrict the liberty of children is undeniable – but this is not an argument for imprisonment. Change isn’t achieved through punishment and suffering. Imprisoning children fails to reduce the risks that they might pose to others (while inside and once released) because prisons, unlike our best secure children’s homes, do not have the capacity to address the causes of harmful behaviour. Indeed, because they are institutions where violence is endemic, they can exacerbate children’s potential for harmful behaviour by reinforcing a model of conflict resolution that relies on physical force and aggression. Skilled intervention in purpose-built establishments is required, not warehousing in institutions known to inflict serious harm and to be a conveyor belt to adult imprisonment.
6. What about the needs and rights of those affected by crimes committed by children?

Everyone has the right to be protected and victims of crime, be they adults or children, frequently require support to help them overcome the traumatising effects of their experiences. But in the current context, it is important to recognise that victims and children in conflict with the law are not distinct groups; many children in custody have themselves been victims of crime. The government does not routinely publish data indicating the proportion of children in custody who have themselves been the victims of violent crime, though research carried out for the Youth Justice Board concluded that between a third and up to 92% of children in custody had suffered abuse or neglect prior to being locked up.

Upholding the rights of victims is not incompatible with the abolition of child imprisonment. Depriving a child of their liberty may sometimes be required to ensure the safety of others: this can, and should, be done without recourse to child prisons. Reducing victimisation requires that children whose behaviour is harmful to others are placed in establishments that are able to effectively reduce the risk that those children pose. Critically, this involves helping children face up to the harms they have inflicted on others. This process is often a catalyst for children to acknowledge and speak about the crimes they themselves have endured, within their family and/or in the wider community.

More broadly, having a wide range of positive help and support available to families when children are growing up could avert later crises and difficulties. Reducing victimisation requires the introduction of social and economic policies to fulfil our international obligations to end child poverty, racial discrimination and educational exclusion. That so many children in custody have special educational needs (nearly 7 in 10 of the children in custody who are of GCSE age) requires concerted action by those Ministers, officials and government departments responsible for children’s education and disability-equality, not those whose main focus is (predominantly adult) incarceration.
7. What about older children?

In international and domestic law, all those below the age of 18 years are children and they are all equally entitled to the rights, protections and safeguards afforded to children.\textsuperscript{41} It is no more legitimate to subject 16 or 17 year-olds to inhumane treatment than children who are considerably younger. But this is precisely what happens under current arrangements, given that the overwhelming majority of boys aged 15–17 years are placed in juvenile young offender institutions, the largest type of custodial provision, with the lowest level of staffing and support services. Nor is there any evidence to suggest that imprisoning older children produces better outcomes than it does in the case of younger children. Whenever a teenager enters custody, their case file invariably reveals years of trauma and neglect and lost opportunities. Most of us live in communities where we see individual children growing up without the care, guidance and support they need. We know who they are, and the warning signs are usually there very early on. When such children are – years later – sent to custody, this marks the end of a long line of failure. We want both to prevent children suffering and to reduce the risk of their causing harm to others. Where adequate help hasn’t been there for a child, and they are deprived of their liberty aged 16 or 17, we must do everything possible to stop the harm continuing into their adulthood. There is a wealth of evidence which confirms that imprisoning them simply reduces the chances that they will grow out of crime as they mature, as most ‘children in trouble’ do.\textsuperscript{42}
8. What about children who are given long sentences, which means they have to move to adult prisons in the future?

International law requires that children are detained for the shortest appropriate period of time. However, children often receive sentences that mean they will be incarcerated until well after they turn 18, irrespective of any risks they pose to others. Current government policy is that children are transferred to adult prisons as soon as possible after their 18th birthday, which goes against guidance from the UN body for children’s rights, the Committee on the Rights of the Child. In the past three years, around 350 18 year-olds have been automatically transferred from child to adult prisons.

If we want to build on the positive work done with children while they are in dedicated children’s settings, they should not be arbitrarily transferred to adult prisons upon reaching the age of 18 years.

Scientific understanding of brain development has advanced greatly in recent years, leading to growing calls for the age-range for young people’s services to be extended beyond adolescence, up to age 25. The effects of abuse, trauma and disadvantage do not magically vanish on a child’s 18th birthday, and neither do mental health or neurodevelopmental needs. An NHS census of children detained on a single day in 2016 found that 41% of those in the child secure estate had at least one mental health or neurodevelopmental need/diagnosis. One child in every 20 was officially recognised as autistic.

According to the Committee on the Rights of the Child, once a child turns 18, “the continuation of [a young person’s] stay in the facility for children should be possible if that is in his or her best interests and not contrary to the best interests
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of the children in the facility”. The Committee praises those states which extend their child justice system to young adults who were sentenced as children:

The Committee commends States parties that allow the application of the child justice system to persons aged 18 and older whether as a general rule or by way of exception. This approach is in keeping with the developmental and neuroscience evidence that shows that brain development continues into the early twenties.48

We are the only country in western Europe that still sentences children to life imprisonment – against the guidance of the Committee on the Rights of the Child.49 All children convicted of murder receive a mandatory life sentence even if they were convicted on a joint-enterprise basis (where they were present when the crime was committed). A number of children are also sentenced to long fixed-term sentences, the average length of which has increased in recent years.

Guidance for courts sentencing children requires them to consider the impact of the sentence on the child. In practice, courts passing sentence are often not sufficiently aware of the release mechanisms and the practicalities of the prison system to take this into account. Sentencers should be mindful of these when sentencing to avoid the “corrosive atmosphere” of the adult prison environment where possible.50 Releasing children at the point where they no longer pose a serious risk to others, rather than after a pre-determined period of detention, would also reduce significantly the need to transfer those sentenced as children to adult prisons.
9. If child prisons are closed, what will we put in their place?

Many of the children currently detained in juvenile young offender institutions and secure training centres could safely be dealt with in the community, either at home or – if they are ‘looked after’ by a local authority – in specialist fostering or residential homes. Non-secure therapeutic residential facilities can also be a very positive alternative to depriving children of their liberty.

In a community setting, a range of targeted support services can be used both to support the child and to address needs that custody cannot realistically hope to address. These services include intensive, high quality social work; education (including training and employment support); health (including mental health); housing; youth and allied community services and practical support for families (including material support).

As the Standing Committee for Youth Justice has persuasively argued, custody is not currently used as a last resort – a requirement of the UNCRC. Many children are locked up for non-violent offences where they do not pose a serious risk to the public.

We recognise that our proposals are predicated on excellent community-based services with substantial government investment in local authorities and their partners. But this infrastructure of community support for children and families will not only end the suffering of children currently languishing in prison; it will help all families and all communities and reduce victimisation.

Where there is a genuine imperative to deprive children of their liberty, they should be accommodated in small, local, welfare-based establishments where their needs can be met in a safe and secure environment and the risk they pose
reduced. A model of such provision already exists in the form of secure children’s homes which, at their best, provide a caring environment with the potential to minimise the damage caused by custody, address harmful behaviour and prepare children for a positive future.

Our universal framework – set out in ‘Principles and minimum expectations for children deprived of their liberty’ – builds upon the best that exists within our current child welfare system with some significant new features, including: a presumption that detained children will enjoy a degree of liberty and ordinary childhood experience commensurate with the risk they pose; that secure provision is integrated into mainstream community services for children and their families; and that establishments are small – so they emulate home life – and located close to the child’s community. Any organisation running establishments that deprive children of their liberty must have a credible, child-centred theory of change with manifest commitment to each child’s dignity, worth and potential. This is a universal framework because the same minimum expectations apply whether children are deprived of their liberty through the health, social care or criminal justice routes.
10. How many establishments will be needed, and what will this cost?

Fifteen secure children’s homes were closed in England between 2003 and 2018. Had these establishments still been open when the government committed in 2016 to phase out juvenile young offender institutions and secure training centres, we doubt whether any new additional capacity would now be necessary.

The position we are in today is that England does not have sufficient secure places – regardless of whether children arrive there through a health, social care or criminal justice route. (And that, as we’ve already established, is arbitrary). The Children’s Commissioner for England recently reported that 327 children were deprived of their liberty under the High Court’s inherent jurisdiction, and another 59 children detained under the Mental Capacity Act, in 2019/20. These are ‘invisible children’ who fall through the gaps between the settings – children for whom no secure home has a space, and no mental health ward thinks meet their criteria. Research for the What Works Centre for Children’s Social Care, published this month, found that two in every five children in England requiring a secure children’s home ‘welfare’ place between October 2016 and March 2018 didn’t get one – because of lack of capacity.

High quality, community-based services are essential to prevent children from reaching that point of crisis, but the reality is that there are many hundreds of children in England now in prisons, adult psychiatric wards, unregulated accommodation – and being sent to Scottish secure units – because of the paucity of provision here. Twenty years ago, secure children’s homes in England and Wales had capacity to care for up to 435 children; currently the number of approved places is 230.

Even if the Ministry of Justice used all of the capacity it has purchased in secure children’s homes (the latest data shows 26 places paid-for but unused), there remains a substantial gap between the average number of children remanded and sentenced over the past year and the total spaces in secure children’s homes. The average monthly number of children sent to the youth secure estate in 2020/21 is 602. The Ministry of Justice purchased 101 places in secure children’s homes. That represents 44% of the total secure children’s homes capacity in England.
Within the criminal justice context, the numbers of children deprived of their liberty has already substantially reduced over the past decade. We must now go much further, and only ever consider depriving a child of their liberty if their behaviour clearly poses a serious risk to others and there are genuinely no alternative options for mitigating that risk in the community. By adopting these criteria, which meet the requirements of international law, we contend that at least a third of the current population of children in prison could be safely supported and supervised within the community. The government has recently committed to reducing the numbers of children remanded to custody, and states that only a “small minority of children” should ever be deprived of their liberty through the criminal courts.\textsuperscript{57} Reducing numbers, closing child prisons and restoring welfare-based provision must happen in tandem, not sequentially, and we need an integrated strategy for all children – across health, social care and criminal justice.

Our earlier paper, ‘Principles and minimum expectations for children deprived of their liberty’, states that establishments must be small with living spaces for “8-12 children to ensure that each child is able to develop meaningful relationships with the children they live with and the professionals who care for them”. We said that they should accommodate no more than 30 children in total. If capacity lost through the closure of 15 secure children’s homes between 2003 and 2018 was to be restored – for children entering via social care or criminal justice routes – this would potentially offer specialist care for up to 450 children in England, though the likelihood is that individual establishments would have fewer than 30 places and not all would run at full capacity at any one time. Crucially, having small establishments around the country would enable children to be placed much closer to their home communities – which the government accepts should be the default position.\textsuperscript{58} Our model rests on children having as much liberty and as normal a childhood as possible, commensurate with the risk they pose. This means spending time in their own communities and being supported to resume education or training, for example, which can only be implemented with a network of establishments across the country.
Secure children’s homes are more expensive than prisons because they are smaller, have higher staff-to-child ratios, and employ more highly-qualified staff. In 2020, the per capita costs per annum were as follows:

- Secure children’s home - £251,000
- Secure training centre - £211,000
- Young offender institution - £99,000.\(^5^9\)

There are doubtless those who will say that restoring 15 establishments is simply too costly. But to put this into context, 50 new free schools opened at the start of the 2020/21 academic year alone, with the creation of 24,000 new places for children.\(^6^0\) Moreover, the reduction in the use of child custody in recent years has generated significant savings for central government.

In 2009/10, the budget for custodial provision for children in the criminal justice system was £316m. Based on the current cost of secure children’s home placements, it would be possible to restore provision to the 2003 position – with a maximum of 450 places for children entering via welfare or criminal justice routes – for a considerably lower annual outlay of circa £113m, less than half what was spent by the Youth Justice Board on criminal justice custody a decade ago. This amount is around two-thirds of the cost of the COVID-19 Nightingale hospital which opened in London earlier this year funded by central government.\(^6^1\) With the right political will, the government’s 2016 promise to close child prisons can be realised.

As Lord Justice Baker stated last year, in a Court of Appeal case concerning a 15 year-old looked-after girl and the legal basis upon which she was deprived of her liberty:

> The absence of sufficient resources in such cases means that local authorities are frequently prevented from complying with their statutory obligations to meet the welfare needs of a cohort of vulnerable young people who are at the greatest risk of harm. The provision of such resources is, of course, expensive but the long-term costs of failing to make provision are invariably much greater. This is a problem which needs urgent attention by those responsible for the provision of resources in this area.\(^6^2\)
Child-centred provision for the relatively small but extremely vulnerable population deprived of their liberty is likely to generate substantial ‘life course’ savings through improved longer-term outcomes. Welfare-based secure environments have the best chance of helping children get back on track with their education; tackling the root causes of distress and harmful behaviour such as abuse and early trauma; engaging mental health services and ensuring children leave establishments with the right care and support. Too many of our adult prisons are filled with individuals who were formerly child prisoners: we have to stop the cycle of harm.

Drawing parallels with the NHS, we know that a lot of the most serious disease is preventable. This does not diminish the need for resources for emergency departments and for highly specialised medical care to deal with the aftermath of, say, heart attacks and adult-onset diabetes. Similarly, the vast majority of serious child offending is preventable. Problems build up early in children’s lives and it’s our education, health, children’s social care and other systems which have the best opportunities to stop difficulties escalating. But just like specialist NHS provision, when children’s lives are in crisis, and they are putting others at serious risk, it is right that properly resourced secure establishments are available – for the victims of crime, for the children concerned and for the wider public.
11. **Are secure schools the answer?**

The government’s commitment to abolish child prisons was made in the context that juvenile young offender institutions and secure training centres would be replaced by a network of secure schools.

Secure schools, we understand, will be registered and inspected both as secure children’s homes and 16-19 academies; one effect of the academy element being to exclude local authorities from running secure schools. In the four years since the government announced its plan to create a network of secure schools, details of just one pilot, to be called Oasis Restore, have been published. While we welcome the ambition underpinning the introduction of secure schools as an alternative to juvenile young offender institutions and secure training centres, we have reservations about the extent to which they will mark a complete break with child prisons and imprisonment.

Government plans for Oasis Restore, due to open in 2022, currently breach at least three of our six child prison tests (see Question 1):

- The chosen location is part of an adult prison complex, and the building was formerly a child prison;
- Its capacity, at 60-70 children, appears to be modelled on a smaller child prison rather than the average size of a secure children’s home (which is 17 children);
- Ministerial responsibility for these new ‘schools’ continues to rest with a government department in charge of adult imprisonment.

We are further concerned that barring local authorities from running secure schools (by virtue of their 16-19 academy status) means that the benefits of locating establishments within wider services to children and their families have been lost. The government itself praised the integrated working achieved by secure children’s homes when it first announced secure schools.

The selection of the former site of Medway secure training centre, which was most recently used as an adult prison and is adjacent to two other adult prisons, seriously risks making the first secure school an annex to the
existing penal estate, rather than a completely different type of establishment. Many children suffered serious abuse in Medway secure training centre over a protracted period and official reviews have confirmed systemic failure to protect children there.

Given its history, the choice of this location appears to be completely at odds with the government’s stated policy intention of breaking with the past.

In April 2020, the European anti-torture committee published its latest review of child prisons and welcomed government plans to phase them out:

... a new approach towards juvenile detention, based upon a socio-educative model of secure schools, is welcome ... smaller institutions with a socio-educative welfare approach are better suited to respond to the complex needs of juveniles in custody.

However, the Committee said there are unanswered questions about the government’s plans for secure schools, and requested more information:
… a number of questions remain unanswered to date regarding: the staffing ratio to young persons; the profile of the staff (care workers as opposed to custody officers); regime; size of living units; the mix and profile of the young persons; the timetable for the rolling out of secure schools once Medway is opened. Other pending questions relate to how the approach will compare to the existing [secure training centre] and [secure children’s home] models and to what extend it will be oriented towards small community living units (cooking, eating and living together).\textsuperscript{65}

We agree with the European anti-torture committee that there remain unanswered questions about secure schools generally. We are very clear, however, that the building and site of Medway secure training centre (itself part of a wider prison complex) remain completely unsuitable for children.

**Concluding remarks**

The government’s 2016 pledge to phase out juvenile young offender institutions and secure training centres was an historic commitment. But not a single juvenile young offender institution has closed since then. Instead of closing Medway secure training centre after serious child abuse was found there, ministers have decided to convert it into their first secure school.

As the UK prepares for its next children’s rights review by the Committee on the Rights of the Child, a process which starts next year, we must make serious headway in ensuring detention is always a genuine measure of last resort, and that children are only ever placed in establishments wholly designed for them.

The closure of child prisons requires a bold, child-centred, cross-government strategy and a commitment to clear timescales matched with the necessary public funds. For the very small number of children who pose a demonstrably serious risk to others and cannot presently live safely within the community, secure accommodation must provide highly skilled care, protection and support towards a positive future. We hope to have contributed to this process through the publication of this document. As our country continues to come together to protect children from the direct and indirect effects of COVID-19, we urge policy-makers to remember and act for those hidden behind high fences and locked doors, who face the greatest dangers, both now and in the future.
Notes

3. Youth Custody Improvement Board (February 2017) Findings and recommendations of the Youth Custody Improvement Board.
18. The UK ratified the treaty in December 1991.
20. Information Commissioner’s Office decision notice FS50478716: https://ico.org.uk/media/action-weve-taken/decision-notices/2014/962876/fs_50478716.pdf (The Ministry of Justice’s refusal to release full details of restraint techniques authorised for child prisons was challenged unsuccessfully in the Court of Appeal, and subsequent applications to both the Supreme Court and the European Court of Human Rights were similarly unsuccessful.)
22 Kenneth Clarke, then Home Secretary, told Parliament on 2 March 1993: “The challenge for the new secure training centres will be to provide high standards of care and discipline and opportunities for the juveniles in their care to develop as individuals. Regimes in the new training centres will embrace education and training provided in ways that tackle the individual’s offending behaviour. After release from the secure training centre, the order will ensure that the juvenile remains under close supervision unless and until his behaviour has altered and those responsible can be confident that he is no longer a threat to society..."

The secure training orders will be different from anything that has ever been provided before. I envisage that the centres will be provided through agreements with suitable organisations. They may come from the public, voluntary or private sectors, provided that they can demonstrate the ability to meet the standards we shall be setting and to give value for money. Central Government will act as the purchaser of this provision...”.

Michael Howard, then Home Secretary, told Parliament on 19 October 1994: “...the Government have made it clear that the new secure training centres will be different from anything tried before. They will be centres housing a specific category of persistent offender, and the regime will be tailor-made for them so as to provide the right kind of training and care within a secure environment... Secure training centres, in their design and their regime, will be tailored to a specific type of offender of a relatively narrow age range. Only in such a dedicated institution will it be possible to provide the specialised regime needed to tackle the behaviour of that group and the range of educational and training programmes that will meet their individual needs.

In contrast, local authority secure accommodation cannot provide that focused regime. That accommodation caters for a variety of difficult and disturbed juveniles in a wide age range. Some are serious offenders, others are on remand, and many are not offenders at all. With such a group to cater for, local authority units cannot provide the concentrated, specialised regime that is the aim behind secure training centres”.

When the Labour government, in 1998, decided to press on with secure training centres – despite voting against them in opposition – the BBC reported: “These [centres] will put the emphasis on rehabilitation and care, rather than punishment. There will be higher than normal level of staff at the centres and most of them will have a childcare rather than a penal background”.


24 Ministry of Justice description on government website: "We are responsible for these parts of the justice system: • Courts • Prisons • Probation services • Attendance centres

The organisation works together and with other government departments and agencies to bring the principles of justice to life for everyone in society. From our civil courts, tribunals and family law hearings, to criminal justice, prison and probation services. We work to ensure that sentences are served and offenders are encouraged to turn their lives around and become law-abiding citizens. We believe the principles of justice are pivotal and we are steadfast in our shared commitment to uphold them”.


26 Her Majesty’s Inspectorate of Prisons (January 2020) Separation of children in young offender institutions: A thematic review by HM Inspectorate of Prisons.


29 Justice Studio (2014) “They helped me, they supported me”. Achieving outcomes and value for money in secure children’s homes.


32 Ministry of Justice (September 2020) A smarter approach to sentencing.


40 45 percent of children aged 14 and 15 (Key Stage 4) given a custodial sentence of less than 12 months in 2014 had special educational needs but no statement, while a further 28 percent had a statement of special educational needs. Of those children aged 14 and 15 (Key Stage 4) given a custodial sentence of more than 12 months in 2014, 46% had special educational needs but no statement, while a further 21 percent had a statement of special educational needs: Ministry of Justice and Department for Education (December 2016) Understanding the educational background of young offenders: Joint experimental statistical report from the Ministry of Justice and Department for Education.
41 Article 1, UN Convention on the Rights of the Child; s105 Children Act 1989.
43 Article 37, UN Convention on the Rights of the Child.
45 Information obtained by the Howard League for Penal Reform via a freedom of information request.
49 Committee on the Rights of the Child (2016) General comment no. 20 on the implementation of the rights of the child during adolescence.
50 Such an approach was taken in Re Thompson and Venables (Tariff recommendations) [2001] 1 Cr App Rep 40, where Lord Woolf substantially reduced the minimum terms so as to avoid the necessity for a transfer to the “corrosive atmosphere” of adult prison which would “undo” much of the good work they had achieved.
51 Standing Committee for Youth Justice (2020) Ensuring custody is the last resort for children in England and Wales. London: SCYJ.
55 House of Commons written question, 7 June 2004: Column 115W.
56 National Statistics (September 2020) Children accommodated in secure children’s homes.
57 Ministry of Justice (September 2020) A smarter approach to sentencing.
58 Joint Committee on Human Rights (April 2019) Youth detention: solitary confinement and restraint, paragraph 68.
61 https://healthbusinessuk.net/news/11062020/nightingale-hospitals-cost-estimated-£3220m
62 [2019] EWCA Civ 2025. This case reached the Supreme Court in October 2020: https://www.supremecourt.uk/cases/uksc-2019-0188.html
63 Ministry of Justice (June 2018) Our secure schools vision.
64 Ministry of Justice (December 2016) The government response to Charlie Taylor’s review of the youth justice system.
65 The Committee’s report can be found here: https://rm.coe.int/16809e4404
The End Child Imprisonment campaign will:

- Press for the closure of England’s child prisons and raise awareness of the harms of child imprisonment.
- Propose a child welfare-based and human rights compliant secure model for the small number of children who cannot be safely looked after and supported in the community.
- Push for responsibility for detained children to be moved out of the government department that deals with adult imprisonment. At a local level, responsibility for the care and support of detained children must lie with children’s social care services.
- Seek changes to law and practice so that deprivation of liberty is an absolute measure of last resort, leading to substantially fewer children being detained.
- Remove punishment and deterrence as reasons for locking up children.

Contact
info@article39.org.uk
www.article39.org.uk/endchildimprisonment

End Child Imprisonment is a broad-based campaign. Not all of our supporters will necessarily agree with all of the contents of this publication.

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