

Justice Committee

Oral evidence: [Children and young people in custody](#), HC 306

Tuesday 2 June 2020

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Members present: Sir Robert Neill (Chair); Paula Barker; Richard Burgon; Rob Butler; James Daly; Miss Sarah Dines; Maria Eagle; Kenny MacAskill; Dr Kieran Mullan; Andy Slaughter.

Questions 1 - 23

Witnesses

[I](#): Peter Clarke, Chief Inspector of Prisons for England and Wales, Her Majesty's Inspectorate of Prisons; Angus Mulready-Jones, Lead for children and young adults, Her Majesty's Inspectorate of Prisons; Keith Fraser, Chair, Youth Justice Board; and Colin Allars, Chief Executive Officer, Youth Justice Board.

Examination of witnesses

Witnesses: Peter Clarke, Angus Mulready-Jones, Keith Fraser and Colin Allars.

Chair: Good afternoon, everyone. Welcome to this session of the Justice Committee. We are continuing our inquiry into youth justice. I am particularly grateful to those who have joined us on our panel.

Let me first ask the members of the Committee to make any relevant declarations of interest. I am a non-practising barrister and a consultant to a law firm.

Maria Eagle: I am a non-practising solicitor.

James Daly: I am a practising solicitor and a partner in a law firm.

Richard Burgon: I was a practising solicitor prior to being elected as an MP.

Miss Dines: I am a practising barrister, but I have not taken any cases since my election.

Andy Slaughter: I am a non-practising barrister.

Rob Butler: I am sorry for this long list. I was a member of the HMPPS non-exec board until my election. Prior to that, I spent four and a half years on the board of the Youth Justice Board until the end of 2017. I was a youth magistrate and, in that role, sat on the YOT management board in Hounslow, but that finished about two and a half years ago.

Q1 **Chair:** Unless I am much mistaken from previous sessions on this inquiry, nobody else has a relevant declaration to make, so we will save time and move straight on.

I thank the members of our first panel for coming. I ask them briefly to introduce themselves and the name of their organisation before I go to the questions.

Peter Clarke: I am Peter Clarke. I am Her Majesty's chief inspector of prisons for England and Wales.

Angus Mulready-Jones: I am Angus Mulready-Jones. I am the lead inspector for children and young adults at Her Majesty's inspectorate of prisons.

Keith Fraser: I am Keith Fraser. I am chair of the Youth Justice Board for England and Wales.

Colin Allars: I am Colin Allars. I am the chief executive officer of the Youth Justice Board.

Q2 **Chair:** Some of you are familiar to us; Mr Clarke certainly is. It is the first time you have been in front of the Committee since you were appointed, Mr Fraser, so congratulations on that. We look forward to working with you in the future.



HOUSE OF COMMONS

I apologise to everybody at the start because there are going to be Divisions in the House of Commons, starting just after 3 o'clock, which will go on for some time. The normal procedure is to suspend during Divisions, and for reasons that are probably well publicised these Divisions may take a lot longer. We are going to get through as much as we can. I hope that we will finish the first and possibly the second panel. We may have to break off and it may not be possible to come back, but I hope that we can deal with everybody here as much as we possibly can. I apologise in advance, but it is not something we can control.

Let me kick off straightaway and start with the immediate topic that is a matter of concern to everybody. What impact have you found that the Covid-19 situation has had on the youth justice system as a whole? We will get on to the broader issues, but what about the immediate and pressing issues? What difference have they made?

Keith Fraser: I will start with a quick summary and a quick run-through, starting with children first in relation to that.

Covid-19 could be viewed, first of all, as another adverse childhood experience for children, due to the circumstances in their home life and, secondly, in relation to mental health in children. There is some evidence at the moment, and we are testing its validity, of additional self-harm and an increase in attempted suicide. There is also an impact on training and education, which leads to a sense of increased isolation and could have a detrimental impact on children in their re-assimilation to society.

We are hearing increased information as well from youth offending teams and the police about gangs. The activity is still continuing, but in another format. That is one to watch. There is a strong, longer-term need to understand the impact on children and on the system in general.

If you would like me to go on to our strategy briefly, I will update you on that. In the Youth Justice Board, our strategy has two strands. One is in relation to the immediate and dealing with the remainder of Covid-19, and the second phase will be about looking forward.

To date, in relation to the Youth Justice Board's response, we have tried to make sure—well, we have made sure—that the youth offending teams have an understanding of their financial positions. In relation to the grant, we have left no uncertainty about that and what they are receiving. We have reduced the burdens on youth justice teams in relation to the data they are sending back to us, having them focus on recovery and looking to post Covid-19, and whatever we transition to.

There has been significant increased stakeholder engagement so that we have a more in-depth and comprehensive understanding of what is happening. We have increased our advice to Ministers. We are taking positive action in identifying good practice, and trying to share and assimilate that good practice across the sector.



HOUSE OF COMMONS

We are receiving some good support from the police, the youth custody service and Her Majesty's Courts and Tribunals Service. That has enabled us to provide advice on policy and ensure that children remain at the heart of what they do.

Moving forward, it is very important that we understand the impact of what has happened, to enable the sector to look at that in relation to the challenges and to look at innovation and what we would like to take forward. We want to ensure that children's voices are heard, and are a key part of that, and that children's issues are understood. One of the things that we will be doing is convening the youth justice oversight group, which brings together a number of Government Departments and other statutory agencies. A key focus will be the journey through Covid and the recovery period.

Would you like me to progress, or pause there?

Q3 Chair: Perhaps pause there for a moment. I will ask Mr Clarke what he and his colleagues from the inspectorate have seen around that.

Peter Clarke: I hope I can follow logically from that. I lost the connection for a while, so I missed part of what Mr Fraser was saying.

From the point of view of the inspectorate, our first short scrutiny visit was to YOIs. What we found there was very interesting, in the sense that the work that had been done communicating with the children meant that they understood the extreme restrictions on their regime, their lack of ability to get out of their cells and the lack of education being provided. That is to the great credit of the staff and managers at those establishments. The communication with children had been very good to that point.

If we have concerns now, it is particularly about where we go from here and about the variation between different establishments. For instance, we found that at Cookham Wood there was no face-to-face education being provided at all, whereas at Parc in south Wales there was. It was difficult to understand why there was such a discrepancy.

We were told that managers and governors at both Cookham Wood and Wetherby YOIs had wanted to introduce some face-to-face education very soon after lockdown but were prevented from doing so because of a central direction. Meanwhile, at the Keppel unit at Wetherby and in Parc there was some education. It must be said that it was not a huge amount, but at least there was some face-to-face education at Parc, which meant that the boys were getting out of their cells for longer.

My concern now, and it is replicated in the wider custodial estate, is how we move from where we are to something that looks like normality, which does not just depend upon a very slow approach to restoring previous regimes. There needs to be flexibility and the ability to mitigate the bad effects of long-term isolation, which is what boys in YOIs are



experiencing at the moment, and to be innovative. There needs to be enough flexibility allowed within whatever recovery plan the Prison Service and the YCS come up with to allow that to happen.

We have spoken to governors, not only in the YOIs, but more widely across the custodial estate, who are becoming frustrated with their inability to innovate and mitigate at local level. That needs to happen. We are being told now that, while prisoners and children in YOIs have understood the need for restrictions so far, as they begin to see the situation changing in the community they will lose patience if they do not see a similar progression. It might not necessarily be at the same pace—that would be broadly understood—but there needs to be some progression within the custodial estate on relaxing regimes.

Chair: A perceived unfairness in treatment would create tensions and difficulties.

Q4 Andy Slaughter: Dealing specifically with the effects of Covid-19 at the moment—we may get to more general questions on those areas later—and the challenges that presents, can you say what is happening in terms of release? The figures I have seen show that the total number of people in custody who might be released is in single figures. What are you doing on education? What are you doing particularly to protect the BAME population, which is half the population of the youth estate? You mentioned isolation. Is anything being done to remedy the increased effect of the use of solitary confinement, and is the transition of those reaching 18 being handled properly?

Peter Clarke: By way of introduction, I suspect that most of Mr Slaughter's questions would have been better aimed at the third panel this afternoon, when the Minister and Helga Swidenbank would, I hope, be able to give more detail about the plans to address all the issues you have raised. They are certainly issues that concern us. If I may, Chair, I will hand over to Angus Mulready-Jones to give some more detail.

Angus Mulready-Jones: On the first part of the question, very few children have been released in the early release scheme¹. In common with the scheme as it has been applied to adults, I do not think that anybody could sensibly say it has been a success in reducing the population. Obviously, normal releases have been happening throughout this time. A slowdown in court activity has meant that the population has slightly reduced, although it is likely to be a temporary reduction.

In terms of what is on offer for children during this time, initially it was a very challenging time for managers, and they reacted quite quickly. Our findings, four weeks into the crisis, in and around 21 April, were that time

¹ Clarification by the witness: To clarify, no children have been released through the Coronavirus Restricted Temporary Release scheme. However, a small number of children have been reassessed for the pre-existing early release scheme as a result of the pandemic.



out of cell for children was very poor in the public sector estate. It was far better at Parc in south Wales—in fact, five times better than at Cookham Wood. Those differences remain today, when Cookham Wood is delivering less than an hour out of cell each day for the children there, whereas Parc in south Wales is delivering closer to four hours out of cell.

The key difference is education or, more accurately, education activity. No one in Parc is working towards formal qualifications in the normal sense. They are getting something that would be akin to the provision for vulnerable children in the community. That is a key link. Vulnerable children in the community are entitled to provision in schools and have been entitled to that provision since the lockdown was imposed. Most children in custody would fit that description, so in my opinion custody needed to have moved quicker to deliver education at the sites that it has, particularly children's sites. Until they deliver adequately some form of education, those regimes will remain inadequate.

There is something about proportionality. Was it acceptable on 23 March to shut down regimes, including education, so that you could assess the situation and start delivering a service safely to children? Absolutely it was. Is it still acceptable 10 weeks down the line to be in a position where children across the estate are locked up in excess of 22 hours a day? No, that is not an acceptable position. The estate needed to move quicker to deliver regimes that were more akin to what has been achieved at Parc, with a very similar resource to the rest of the estate.

Andy Slaughter: Based on those answers, I feel bolder about putting those questions to the Minister. Thank you.

Q5 **Maria Eagle:** This is a question for everybody on the panel. In view of what you have said, do you foresee any long-term effects of the period of Covid-19 lockdown on the individuals who are in the system at present, and on the system itself?

Chair: Would Mr Fraser or Mr Allars like to start with the Youth Justice Board perspective on that?

Colin Allars: We are concerned about the potential for long-term impacts. To take where we have got to, effectively children in the system have had a pretty difficult time for 10 weeks in terms of education in the secure estate or in the support they have had in the community. Undoubtedly, it has been a difficult time for them.

One of the things that the Covid period has characterised or exacerbated is the marginalisation of children in the criminal justice system. They are marginalised anyway, but when there is a lockdown of all other provision, they become increasingly marginalised. They do not have the support they would get at school. They do not have links with other pupils in the way they would normally have. That puts them at risk, and we are concerned about potential problems and the impact on their health and wellbeing, both today and long term.



All the evidence shows that trauma, in whatever form, can contribute to particular behaviours in the future. It is an area of real concern to us. What we are doing about that is trying to bring together partners from across the whole system, to share experience, to understand what the children are experiencing and to try to put together a package that will support those children going forward.

My chair has already talked about the youth justice system oversight group, which we are calling together tomorrow. One of the things we are going to do there is to hear directly from children who are in the system at the moment about their experiences of the last 10 weeks—their fears, their concerns and their aspirations for the future. We will hear that at first hand. The Minister and others are going to join us for that, and hear it first hand and raw from the children. I have not heard it myself yet; I will hear it tomorrow. I am told that they are very frank about what they have experienced and what they are looking for in the future. That needs to inform our approach in the future, and the approach of all partners who work with children going forward, so that marginalised children are not pushed even further away from the centre.

Angus Mulready-Jones: As the chief inspector has previously stated, one of the real risks of these restrictions is that they continue for too long and it becomes more normal for the vast majority of children held in custody to spend long periods of time in their cell.

On top of that, there has been a withdrawal of some key partners across the estate, such as secondary mental health services, psychology services and Barnardo's advocates and so on. Those services need to be reinstated. Some of these children have very high levels of need. All of them have a higher level of need than you would typically find in the community. Some of them were receiving very structured interventions prior to the curtailment of the regime in March, and that was withdrawn overnight. There needs to be some real thinking about how to deliver that back to children relatively quickly. No one believes that all the restrictions will diminish overnight, or indeed in the near future, so there is a real risk from the impact on children with acute needs in the system.

Finally, on a more positive note, there has been a push for video technology being instigated in prisons. It has taken far too long. Parc delivered it on 21 April. As far as I know, in the public sector estate it has only just started working—this week, or last. That is a long-term legacy that should be continued. We know that children are held a long way from home. Many of them struggle to get visits during normal times, let alone when visits have been cancelled. There is real potential for that to assist in a mixed economy of contact with the community in the future.

Q6 **Maria Eagle:** Are there any figures yet on the actual impact on individuals in the estate who have had their support withdrawn in that manner? Are there any numbers or figures about adverse impact yet?

In terms of Covid itself, have there been any outbreaks in the youth



estate at all? What are the numbers? I am not sure that I have seen what the numbers are.

Angus Mulready-Jones: In terms of clear numbers, I think you would have to direct the question to the later panels. The only thing I would say about numbers is that we are talking about such a small group of children in custody that the numbers will inevitably change as we go through this. It will take time to understand the full impact in terms of self-harm, violence and other impacts throughout the estate.

Sorry, I missed the second part of the question.

Q7 **Chair:** Mr Fraser wants to come in, and then you can come back, Mr Mulready-Jones.

Keith Fraser: You asked about the long-term impacts on the system, and I want to deal with some aspects of that. Initially, I would like to highlight some positives. One is the flexibility of the youth offending teams and how they have worked with young children in order to try to maintain appropriate levels of engagement. The National Police Chiefs Council has worked with us to develop messaging to go out to children, to prevent the over-criminalisation of children in what is happening.

I have a number of concerns about the longer-term impacts on the system. One is in relation to the backlog of court cases that we have at the moment: first, from a resourcing perspective and the ability of the system to cope with that; and, secondly, the impact on children in the system.

The positive in that is that those children are visible, but they will potentially take longer to come through, so can the system cope? There is another group of children that is not visible—those released under investigation. I do not have sight of the size of that bubble, for want of a better expression. There is some concern about the ability of the system to cope with children taking longer to go through the system and the appropriate prioritisation of children through the system.

Q8 **Chair:** Thank you; that is very helpful. Do you want to come back to the second point, Mr Mulready-Jones?

Angus Mulready-Jones: The question was about Covid outbreaks in the youth estate. There have been confirmed cases, both in children's homes and YOIs. There have also been a number of children with symptoms.

One of the successes of the estate has been to contain those cases in relatively small numbers at each site, so there have not been the larger scale outbreaks that we have seen in other establishments. Largely speaking, some of the measures put in place to keep new arrivals, those with symptoms and those who are especially vulnerable separate from the rest of the population—referred to as cohorting—throughout the estate have been successful in stopping the spread within custody. There



have been single figures, as far as I am aware, at Cookham Wood, Feltham and Barton Moss children's home.

Q9 Dr Mullan: I want to take a step back and reflect outside the current crisis we are dealing with, with how well you think youth justice—*[Inaudible]*. I appreciate we are tight on time, and I know it is difficult to talk in broad terms succinctly, but where you can, it would be appreciated.

Chair: How well is the system working?

Angus Mulready-Jones: As I understand it, this is regarding the estate in normal times. There is no one—

Chair: It is the system as a whole, not just the estate.

Angus Mulready-Jones: In terms of the youth justice system as it refers to custody, I do not think anyone would sensibly say that the custodial estate is operating particularly well, has been well designed or is fit for its current purpose. The set of institutions we have is more an accident of history and a demonstration of what happens without adequate planning.

We have children held in a range of units and establishments with various functions. There are lots of buildings that are designed for adults rather than children, which impacts on effectiveness. We have children held in units of 50 and 60 at Wetherby and Werrington, which impacts on the relationships that we would like delivered at those establishments.

There has been some movement on staff training, with the introduction of a foundation degree, but the turnover across the estate, particularly in secure training centres but also in YOIs, is far too high for frontline staff. There continues to be an acceptable level of line management and support for those frontline staff across the estate.

One of the key problems we find is that there is no real reason for the dramatic variety of provision we have. I do not think anyone has really thought through the three sectors for 800 children—750 or so at the minute. They mean that there is a real difference between what child A gets and what child B gets. The resource does not necessarily follow the need of the child. A child in a secure children's home is resourced three times more generously than a child in a YOI. In actual fact, many of the highest-need children struggle to be dealt with in STCs and SCHs, and they are moved to YOIs, where there is less resource to meet their needs.

We have already spoken about children being held far from home, and I would like to highlight the provision for girls. Outside the secure children's home estate, provision for girls is limited to one site. There is no national strategy for the group, which is simply fitted into a system designed to manage boys. We know that the outcomes demonstrate the need for specific services for girls. They are more than twice as likely to



HOUSE OF COMMONS

be restrained and six times as likely to self-harm as their male counterparts.

Overall, a key problem is the lack of a realistic long-term strategy to improve outcomes for children across the estate. The vision of a secure school is stalled, despite needing no new legislation and no new establishment. Meanwhile, the improvement to the rest of the estate has been piecemeal, which means that outcomes are not good enough for the majority. We have violence, self-harm and use of force all at or near historically high levels. We have very few children—

Q10 Chair: I think we've got most of that. Forgive me, but time presses, Mr Mulready-Jones, and we need to move on. Thank you; you highlight what we already have in our brief.

The secure estate is part of it, of course, but Dr Mullan was talking about the whole system. Mr Fraser and Mr Allars, what is your take on the rest of the system? How is that working?

Colin Allars: Looking long term at the youth justice system, some could argue that it is one part of the public sector that has been a huge success. If you look at the headline numbers, 10 years ago there were 127,000 children receiving a caution or a sentence of some form. Last year, it was 21,700, so there is a massive reduction.

There are huge reductions in new entrants to the system, with an 88% reduction over the last 10 years. There is a really big impact in terms of children no longer coming into the criminal justice system. I think all of us would accept that that is positive. There is a much better shift around the best way to deal with a child who is at risk of coming into the criminal justice system. That is credit to all parties involved, from the police to youth offending teams and local authorities themselves.

There has been a shift in emphasis from the youth justice system being one that was about punishment and dealing with children as criminals to one that recognises that most children who come into the criminal justice system have had a very difficult upbringing or have had particular challenges in their early life that have contributed to their behaviour. That is not to excuse the criminality at all; it is just a reflection of the challenges that those children face. I think the whole system has shifted to one that is much more welfare focused, and as a result it works with children much more effectively than in the past.

That is not to hide the fact that there are still significant challenges in the system about join-up, the flow of money and what happens to children as they become marginalised, and cannot access mainstream services and so on. There are challenges faced by BAME children and their representation in the system, and why they are still massively over-represented. It is all those issues.

There has certainly been a shift towards recognition of trauma, and dealing with trauma and health issues much more effectively. The shift of



HOUSE OF COMMONS

youth offending teams within local authorities is almost universally as part of the children's services function. That is part of what has happened at local authority level. Most youth offending teams now sit under the direction of children's services. Their clientele, if you accept that term, are accepted first and foremost as children, and dealt with as children. There is recognition that actually many of the interactions that go on ought to be in that sphere of work. There are real positives, but that does not mask many of the other difficulties that we set out in our submission to the Committee.

Q11 Dr Mullan: I want to explore the issue of parents' involvement in these situations. I recognise that a significant proportion of children in the youth justice system are looked-after children, and there is not a family network of support, but what are your reflections on how well you think we are using measures like parenting contracts, parenting orders and the troubled families programme?

The troubled families programme is focused to an enormous extent on families where children have antisocial and potentially criminal behaviour. I understand that is a cross-departmental initiative. How well do you think that programme engages with you in the Youth Justice Board, and how well do you think we are managing and monitoring the effectiveness of engagement with parents? When children are in the estate itself, do you engage with parents while people are in the estate or is it just restarted when they leave? How do you intend to engage for those in custody?

Colin Allars: The honest answer is that it is highly variable. Probably the witnesses from the youth offending teams—the Association of Youth Offending Team Managers—may be better placed to talk about that from a local point of view.

At national level, we talk with our counterparts across Whitehall about the interaction between the various initiatives. We work very hard to ensure that, where there is scope to bring parents and parenting into the thinking-through of what the intervention could be, we certainly do that.

As you identified, many children coming into the system are in care so they do not have parents in the traditional sense, but that does not mean that they do not have parental support in some other guise. Very often, children under the youth offending team, although they would not use the term "parent", look to their youth worker, effectively, as their parent.

One of the things I would draw out, to go back to the original question on the impact of Covid, is that I have been impressed by the number of stories I have heard of individual youth workers either reaching out to an individual child—children who did not have enough food, living in supported accommodation so they did not know how to go and get food and so on—ensuring that they had something to eat in the early days, or reaching out to families that were really struggling and were looking for somebody in authority who would help them. Youth workers have



sometimes gone to those families, worked with them and built a dialogue with the parents.

I am hearing from YOT workers that a positive coming out of this is that some of the concerns that there were in the past about dealing with the YOT seem to have disappeared: "There is somebody there who can help me through this problem." That is a positive that I think all of us hope we can keep going forward, because undoubtedly parental support—family support in some guise—is a really important part of supporting children to find the right path forward.

Chair: Thank you very much. Dr Mullan, do you have anything else?

- Q12 **Dr Mullan:** I wouldn't mind hearing Angus's point of view on the estate and engagement with parents—if he has any experience of where that is done well or not done well.

Angus Mulready-Jones: The challenge in the estate of involving parents is that custody is set up to separate people from their community, so it always works in a slightly clunky way. Visits halls and so on are quite austere environments. Where we have seen better practice is around involving families in sentence planning in places such as Werrington, and in celebrations of success in education across the estate as well.

In the current crisis, one of the bright spots is the introduction of video calling, which should, in the long term, improve input from family members. But is it where it would be in an ideal situation? No, there is still room for improvement, and what we are seeing is aspects of good practice in different places rather than a complete package in one institution or establishment.

- Q13 **Dr Mullan:** I recognise that from a kind of emotional, wellbeing and contact point of view that is fine, but I was more interested in people who are being released back to the custody of their parents. You may well be supporting them as individuals to try to better equip them to cope with being released, but what, if any, activity goes on to support their parents to be effective custodians of their children on their release to them?

Angus Mulready-Jones: In reality, the planning that is done for release will be done around the child, so, if there are needs identified with the parents, I imagine that would go from the YOTs. It is slightly outside my area of expertise.

Chair: Fair enough. We will explore elsewhere.

- Q14 **Rob Butler:** I think Mr Allars has answered quite comprehensively a question I wanted to pose about adapting to the needs of children, despite the fact that the physical estate might not be entirely as it should be, so I would like to take half a step back, if I may.

Mr Fraser, as chair of the YJB, do you see any irony in the fact that, of all the inspections that are carried out into young offender institutions, the



HOUSE OF COMMONS

one place that nearly always comes out best—comes out strongest—is the young people’s unit at Parc prison in Wales, which, ironically, is a small unit for young people within a much bigger adult prison and also happens to be private sector, although that is not really the issue I have. People have been saying for years that we need lots more small, bespoke units for children, and the secure schools model seems to be moving that way, yet the current inspection reports might suggest that that is not quite perhaps the way we should be heading.

Keith Fraser: You quite rightly identify some differences in the short-term visits that were held by HMIP, and we really need to understand why that has happened and whether or not it was structural, leadership or policy. We need to look behind them and understand why those differences have occurred.

In relation to the future, you rightly identify that we are moving towards secure schools, which I strongly support. The Youth Justice Board strongly supports that. That was something that was identified in the Charlie Taylor review as a way forward. It might lead to a position where you have a kind of mixed economy of estate, but to comment on what that estate should look like and the format of that estate might be a bit early in relation to letting things settle.

On your point about smaller units, smaller units appear to have a greater positive impact on young people. The ratios for staffing are higher, and the outcomes for children are more positive, so it would appear to be more appropriate, but as regards what is needed for all the children that we have in the estate, we need to look, once the secure school is established, at how that fits in with everything else and then how the journey progresses. I am reassured that that is moving forward, and it might be a question that you want to put to the Minister and the head of the youth custody service.

Q15 Rob Butler: If we have time. I know we are going to move on to secure schools later, but I wanted to pick away a little bit at the points that have been made about the different types of estate there are currently.

You touched on the counterintuitive results of inspections. Let me move on to another aspect that is slightly broader in terms of the philosophical approach. You and Mr Mulready-Jones have talked an awful lot about children, and I know the YJB now has a mantra of “Child first”. That will surprise some people. Some people would say, “Shouldn’t it be victim first?” Some people might also say, “Is it always a helpful descriptor, if, for example, you are dealing with a very burly 17-year-old, who has carried out a vicious assault on a little old lady, to be talking about children?” Could you explain a little bit behind the rationale you have there?

Keith Fraser: Like anything in relation to branding, “Child first” is something simple and quick for people to get, first of all.



HOUSE OF COMMONS

To pick up your last point, the scope of children to do all sorts of bad things does not necessarily mean that children are bad in themselves; that should not dictate our approach. Child first for me is not an anomaly in relation to how we should be approaching the youth justice sector. My rationale for saying that is about understanding what child first is.

Child first is about treating children as children. It is about looking at moving a child from being pro-criminal to pro-social, to reduce the number of victims and to make communities safer. It is about co-developing interventions with children so that they are more appropriate in relation to that. Finally, it is around reducing stigma, so that if a child comes into the system they are not held back by the system. We try to get them through the system and out, and re-assimilated as quickly as possible.

Q16 Rob Butler: Finally on that point, do you think that the youth justice system takes enough consideration of victims of crime, because, quite often, the victims of a youth offender are other very young people—other children?

Keith Fraser: I do not think we should be pitting one against the other. If I can twist the question in another way, they are equally important.

Initially, obviously, there is a protection element that you need to deal with in relation to the victim and the wider community, but once you know the community is safeguarded, you need to treat those children as children; you should before as well. We do not want them coming back into the system. For me, if you adopt a child first approach, you enable us to have fewer victims and safer communities, and you reduce the likelihood of children coming back into the system.

That picks up the point you rightly highlight that sometimes children are victims as well, and we can miss that out if we do not look at the whole individual. I was a police officer for 32 years, so I speak with quite a lot of experience of seeing different methodologies and different approaches that have been tried in relation to children. It is positive to see that the National Police Chiefs Council is moving towards child-centred policing. For me, it is about looking at the justice system. The youth justice system should not be seen in isolation; it is sometimes seen too much in isolation. There are a lot of interdependencies.

I suppose the question I would ask of the youth justice system, and more widely, is whether child first is on their agenda. It is not just about the youth justice system. It is a challenge for all of us, but we can do something about it in a real, positive way.

Chair: That is very helpful. Thank you very much indeed.

Q17 Paula Barker: We know, despite the Lammy review being published in 2017, that disproportionality has continued to increase. In 2015-16, more than 20% of children in custody were of BAME origin, but in March 2020



HOUSE OF COMMONS

the figure was just over 50%. I would be interested to understand your opinions on why you believe that is.

Chair: Who wants to start on that one? Mr Fraser, do you want to come in again? You need to unmute again, I am afraid.

Keith Fraser: I am trying.

Chair: It is a struggle with the technology.

Keith Fraser: Can you hear me?

Chair: Yes, we can.

Keith Fraser: Apologies, Chair. I think your staff would have been better with the controls.

Chair: It is not ideal, I know.

Keith Fraser: In relation to over-representation, I am disappointed with where we are at the moment. You could not be anything but disappointed with the position that we find ourselves in, where currently within the secure estate over 50% of children are from a BAME background.

On the rationale as to why we are in that position, it is not something that has suddenly happened; it has been a challenge for us for a number of years. What the Lammy review has done in the previous two Governments, and what the Government's support for the Lammy review has done, is to enable us to shine a spotlight on over-representation and increase the emphasis, and look from a number of different angles to understand over-representation. Over-representation is a complex matter, but saying it is complex does not mean that nothing can be done about it.

We have done something in the Youth Justice Board called "The journey of the child", which tracks the child's journey—progress is probably the wrong word. A BAME child will be likely to have more mental health needs, and be from a looked-after background and a lower socioeconomic area, where they are more likely to be arrested and more likely to enter the system. Once in the system, they are more likely to come back into the system.

If you start to look at what I call the pinch points, or the points that touch children, you can see that we are all making decisions on people's lives. The questions I would put to organisations that have an impact on children's lives at particular points are: first, do they understand whether or not they have over-representation; and, secondly, if they do, is it something they can explain? If they cannot explain it, what are they doing about it? That message needs to be reinforced.

Q18 **Paula Barker:** On that point, Mr Fraser, the Ministry of Justice has stated that outcomes begin before children are placed in custody, and



HOUSE OF COMMONS

work is ongoing to understand the links between disproportionality that occur before the child enters the criminal justice system, whether that is education, arrests or caution rates. Do you have an opinion on what can be done further? You have talked about the issues around mental health, looked-after backgrounds and socioeconomic factors. They are obviously factors, but is there anything that could be done more specifically to try to address those issues?

Keith Fraser: The areas I am particularly focusing on at the moment are the entry to the criminal justice system, because you can see quite significant over-representation there, and the resettlement aspects, trying to stop young people—children—coming into the system. There are a number of statutory agencies we are working with and talking to about that. The police have been extremely positive in their approach, and I am currently having conversations with the lead for children and young people, because I think there is quite a lot that can be done. That is why I would not use the shield of its being a complex issue and we cannot do anything at all about it.

If you look at the journey, you can take off parts of it. I have said to staff and colleagues, "It is an elephant. Don't choke on the elephant. You need to take off bite-sized chunks. Don't be floored by the fact that it is a complex issue and say we cannot do anything at all about it." I say that we can. For me, the point of entry to the system and re-entry to the system and stopping them would be my gain, but obviously there is a wider influencing piece as well.

Chair: Indeed. Mr Burgon, do you want to come in on this topic?

Q19 **Richard Burgon:** Thank you, Mr Fraser, for that very useful answer. I agree that the analysis that it is a complex issue cannot be used as an excuse not to take action to sort it out.

As we have heard already, at the time of the Lammy review, around 40% of children in custody were black and minority ethnic, but now we are in a situation where over half of all children in prison are black and minority ethnic. So that we are all clear, that means that the racial disproportionality in child imprisonment in our country is comparably as bad as in some states in the United States of America.

I realise that the Secretary of State, the Minister and the Government are fundamentally responsible for sorting that out, but I am very interested in the views of everyone on the panel, in so far as they feel able to give them, in relation to two points. First, why do members of the panel think that injustice has not been ended but has in fact worsened? Secondly, what view do people on the panel have about what specific action should have been taken and what specific action can now be taken to bring an end to this disgraceful racial disproportionality?

Chair: Is anyone able to offer a view on that, if you feel able to? If you feel that it is a question for somebody else, then say so.



HOUSE OF COMMONS

Keith Fraser: It is probably a broader question for others, but I will give two views. One is around consistency about its remaining a priority. The second is around a commitment to take specific action.

There has not been a consistent look at this over the years that it has been a challenge for all of us. It is not just one part of Government; it is a number of Government Departments and statutory agencies. The big thing for me is around consistency and ensuring that, until the situation changes, consistency and focus do not drop. That has been one of the key challenges that I have seen over a number of years.

Q20 **Chair:** Is there anything from the inspectorate's point of view around this topic?

Peter Clarke: Obviously, Mr Burgon's questions are far broader than the remit of the inspectorate, but it does not diminish in any way, of course, their importance. Those of us who have worked in various parts of the criminal justice system for many years know that there is disproportion from one end to the other of the criminal justice system. What I have always struggled with is trying to find out why, and that is the question Mr Burgon posed.

When we conduct our inspections in one part of the, all too often, long cycle of reoffending, we conduct a survey. We find that perceptions from BAME children about their treatment and fairness and so on are consistently worse than others. We say time and again to establishments, "What have you done to try to understand these perceptions? Whatever the perceptions are about, what have you actually done?" I am afraid that all too often it seems to disappear into the "too hard" bracket and does not get addressed as it should.

Understanding and analysing the cause of those perceptions, certainly in my area of work around custody, is absolutely essential and the only way to really get under it.

Chair: That is very helpful. Does any other member of the panel want to come in on this topic? Dr Mullan, are you happy with that? I think that was a yes.

Q21 **Dr Mullan:** I looked at the change in custody, but there has also been a link to the change in sentencing. As you said, we have done a good job in reducing the sentencing—at least people being in custody—and it is actually for the more serious offences that are taking place. We know from the Metropolitan police database on those involved in gang activity that there is ethnic disproportionality in its intelligence on gang membership. Do you think that has the potential to play a role? If we are focusing on more serious offences, and obviously gang criminality is associated with more serious offences, and we are seeing ethnic disproportionality there, does that translate into custody?

Chair: Do you have any observations?



HOUSE OF COMMONS

Keith Fraser: There is possibly a link being made between BAME children committing more serious offences by volume and also proportionally. I do not know if that is the connection that is being made there.

Q22 **Dr Mullan:** It is whether there is disproportionality in what the police are doing. The police's own database—monitoring of people—shows disproportionality. Whether that is fair or accurate is obviously another matter, but from a policing perspective there is evidence of disproportionality.

Keith Fraser: I could not comment on the points you make in relation to the gang database, but if it is okay, Chair, I will pick up on the wider points around the link to serious offences and that being commensurate with there being a stronger likelihood of BAME young children being in the system.

As regards serious offences—gravity factor 4 and above—white young people and children commit a greater proportion of serious offences and a greater volume, so they disproportionately commit more serious offences. We would need to look at that more to understand why there is something different happening in the system.

Chair: That is a fair point. Mr Burgon, do you want to come back?

Richard Burgon: I wanted to thank Mr Fraser and Mr Clarke for their answers, which I thought were very helpful. It is right to reflect that we are only looking in this session at one particular part of the criminal justice system. Obviously, there is policing as well. Then there is education—the education system—and there is society as a whole.

To pick up on one point that Dr Mullan made in relation to gangs, I want to leave this thought: all too often, a group of BAME youngsters are perceived as a gang, whereas a group of white youngsters are perceived as a group of white youngsters even if they are engaging in antisocial behaviour. Perception needs to be analysed as well and how these things are defined. Those answers were very helpful, thank you.

Dr Mullan: Indeed, as I said, it is the police's—I agree that it might be going wrong there.

Chair: Understood. That is a fair point all round. We cannot do the debate on it, but they are legitimate points on either side. You may have come across that yourself as a police officer, Mr Fraser. It is an issue that we need to grapple with.

Q23 **James Daly:** I would like to ask a question that I do not think we are going to be able to do justice to in the time left. Assaults on children and violence against staff across the youth estate are sadly increasing. Can I ask the panel for their views on what factors are contributing to that?



HOUSE OF COMMONS

Angus Mulready-Jones: I can suggest some views. There are several issues around violence in general. HMIP carried out—*[Inaudible]*

Chair: We seem to have lost the sound again.

Angus Mulready-Jones: HMIP carried out a thematic inspection into behaviour management a couple of years ago and found several shortcomings in the way various schemes worked in the eyes of children and staff, and basically recommended that one key factor was around the relationship between the professional person responsible for care, in many cases a prison officer, and the child in their care. The scheme was delivered through that relationship. Too often, there is not the time to develop the sort of relationships you then use to build trust and intervene on poor behaviour.

The second point was around consistently implementing behaviour management schemes. It was not consistent enough. The third bit was around support for those who needed very high-level additional intervention, and making sure that there was provision for that group. We have not seen that consistently implemented since we made those recommendations two years ago.

Chair: Talking of time raises a difficulty, which I had better tell everybody about. I have just had a text to say that a vote is imminent in the House of Commons and it is going to happen within the next couple of minutes or so. The normal procedure is that Select Committees suspend their hearings while a Division takes place. Some of you may have seen in the press that we are voting in a rather odd fashion today and that there are going to be, I am told, possibly three or more votes. Quite a number of votes are going to come up one after the other, and, because we cannot use the Division Lobbies, it will take longer, so we could be looking at an hour or more going by before we would be able to resume. The amount of time that we have available for the broadcast slot will probably have run out by then.

Because it is an important topic, I want to apologise particularly to members of the second panel we have not been able to get to at all. We were able to stand down the third panel because we were never going to get to them in the time available.

We have used up an hour very usefully on this, but I do not want to rush what is now an important topic. What I hope we can do, if people are agreeable, is have the Committee staff reschedule the rest of the meeting. Mr Daly has opened up a very important issue, and I want him and others to be able to pursue it, if you are agreeable. I would like the members of the other panel, who have heard some of the evidence so far, to be able, when they come to their session, to comment on it. I hope it has not been unhelpful from their point of view.

We are having slightly to make things up as we go along because this is a procedure that has never happened before in Parliament's history, and it



HOUSE OF COMMONS

is a rather odd set of circumstances that we have to contend with in the Chair. Having taken advice, if people are happy, we will suspend the questioning. We have a note as to where we have stopped, and we will reschedule as soon as possible because I am anxious to conclude this important inquiry as swiftly as we can, and certainly not wait for other matters to resolve themselves outside. Covid or no Covid, we will carry on with the inquiry one way or another.

I thank everybody for their attendance today, and we look forward to seeing you again ere long. The session for today, but not the topic, is concluded.