



**UK NPM SUBMISSION TO THE JUSTICE SELECT COMMITTEE ON CHILDREN AND YOUNG
PEOPLE IN CUSTODY**

1. The UK National Preventive Mechanism (NPM) was established in 2009 and is made up of 21 bodies who monitor and inspect places of detention in the UK to strengthen the protections against torture and other ill-treatment for those deprived of their liberty. NPM members work collectively to exercise the mandate of an NPM under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
2. There are five members of the UK NPM who monitor and inspect the treatment and conditions for children and young people in Young Offender Institutions (YOIs), Secure Training Centres (STCs) and Secure Children's Homes (SCHs) in England and Wales. These members are: Her Majesty's Inspectorate of Prisons (HMI Prisons), the Independent Monitoring Boards for England and Wales (IMB), the Office for Standards in Education, Children's Services and Skills (Ofsted), the Care Quality Commission (CQC) and the Children's Commissioner for England (CCE).
3. Our response to this inquiry highlights issues raised by the European Committee for the Prevention of Torture (CPT) in their most recent report on detention in England (April 2020).¹ The CPT was set up under the Council of Europe's European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, with a role to prevent ill-treatment through conducting visits to places of detention. In May 2019, the CPT visited prisons, YOIs and STCs in England. Their report presents concerning findings about: violence, use of force, segregation, and detention regimes. The NPM welcomed the CPT's report in April 2020.² Given the additional restrictions placed on people in detention during the COVID-19 pandemic, including for children and young people, we wanted to share the CPT's findings with the Committee as they highlight pre-existing concerns which may have now been exacerbated.

¹ CPT, Report to the United Kingdom Government on the Visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 – 23 May, April 2020, <https://rm.coe.int/16809e4404>

² UK NPM, Statement From the UK NPM in Response to the European Committee For The Prevention Of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Report to the United Kingdom on their 2019 Visit to England, April 2020, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/04/NPM-Short-response-note-CPT-report-England-2019.pdf>

Concerns about the detention of children and young people identified by the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

4. In May 2019, the CPT carried out a follow-up visit to their previous visit to England in April 2016. The delegation visited Feltham A and Cookham Wood YOIs and Rainsbrook STC. They also visited HMP Doncaster, Liverpool and Wormwood Scrubs. During their visit, the delegation met with members of the NPM and the NPM Chair.

Overall concerns

5. The CPT's report states that YOIs were, at the time of the delegation's visit, in a state of crisis. In the CPT's view, the situation in YOIs was not ensuring safe custody for children and young people, or providing a decent regime. The CPT report states that urgent measures must be implemented in YOIs to reduce violence and create a safe and rehabilitative environment for children and young people (CPT report on England, April 2020, paragraphs 112 – 114).
6. The CPT's report reiterates the need for a shift in strategy and culture in the youth secure estate to ensure a child-centred environment. The report highlights a number of unanswered questions in regard to Government plans for secure schools. The CPT request further information on the timetable, scope and operation of secure schools (paragraph 114).
7. The CPT's report also highlights the high number of children on remand in YOIs in England at the time of their visit. The CPT found that in 2018, 58% of children spent less than three months in custody. Remanded children accounted for 24% of the estate at that time, and 63% of those children did not, in the end, receive a custodial sentence (paragraph 112). At the time of the CPT's visit, 42% of the population at Cookham Wood were awaiting trial. Thirty-one per cent of children were unsentenced at Feltham A (paragraph 115). The CPT asked Government what measures are being taken to ensure detention is only ever used as a last resort for children and young people. In the UK NPM's letter to Secretary of State for Justice Robert Buckland QC MP on the risks for people in detention as a result of COVID-19, we raise the need to consider ways to reduce remand populations given the additional risk the virus presents to populations living in close confinement.³

Violence

8. The NPM is concerned that levels of violence have increased in the YOI estate from 2016 to 2019. The CPT's delegation found that cases of violence had increased in both Cookham Wood and Feltham A (paragraph 118).⁴
9. The CPT found that the main violence reduction strategies in place in Feltham A and Cookham Wood were not effective in reducing levels of violence, to the extent that the environments

³ NPM Chair John Wadham to Secretary of State for Justice Robert Buckland QC MP, March 2020, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/03/NPM-letter-to-Robert-Buckland-re-COVID19-300320.docx-WEB-2.pdf>

⁴ At Cookham Wood, there were 35 to 40 assaults by children on other children each month in the first three months of 2019. At Feltham A, 231 assault incidents had been sanctioned between 1 January and 10 March 2019, which included 67 fights involving two or more children.

remained unsafe. High levels of violence impacted negatively on the regime for those in Feltham A and Cookham Wood. Although the CPT note the prompt responses to violence by staff in the YOIs visited, the delegation also found that the high frequency of incidents that had to be dealt with on a day-to-day basis left other areas of the establishments understaffed, with young people locked up in their cells (paragraph 119, 123).

10. At Rainsbrook STC, the delegation found high levels of violence among children.⁵ The CPT also found that staff interventions into these incidents were prompt, or that staff were held accountable for not intervening appropriately (paragraph 169).

Use of force

11. It is of concern that the CPT received allegations regarding excessive use of force by staff on children and young people in Cookham Wood and Feltham A. The delegation found that use of force appeared to be widespread at both YOIs visited (paragraph 122).⁶
12. It is also concerning that the CPT identified several instances where the necessity of applying force appeared questionable. As a result, the CPT recommends that Government review the guidelines and training for staff regarding the management of passive non-compliance with rules where there is no threat of violence or harm to self or others (paragraph 124).
13. In their report, the CPT also made clear its view that any force used to bring juveniles under control should in no way be an occasion for deliberately inflicting pain. The CPT state that only specifically designed non-pain-compliant manual restraint techniques, combined with better risk assessment of young people and enhanced staffing skills, should be used in juvenile establishments (paragraph 125).
14. The CPT's delegation found gaps in the procedural safeguards surrounding the use of force in YOIs. The CPT identified missing or incomplete documentation on use of force incidents, as well as instances in which use of force was not reviewed. Debriefings for children involved in instances of use of force were not organised in a systemic or timely way. The CPT also found that body worn video cameras were not used systematically (paragraph 126). In addition, the CPT found that many of children and young people in the YOIs visited had very little confidence in the YOI complaints system (paragraph 116).
15. Use of force levels at Rainsbrook were also found to be widespread and of high-intensity. The CPT found that since 2017, there had been around 1,000 episodes of use of force each year, and physical restraint techniques had been applied in about 40% of cases – a similar proportion to that which was recorded in the YOIs visited. Pain-inducing techniques had been applied seven times both in 2017 and in 2018 and four times from January to mid-May 2019. While some of the paperwork to record instances where force was used were incomplete, the CPT's delegation found that incidents appeared to be systematically reviewed and discussed with the young persons involved (paragraph 170).

⁵ The total number of assaults in Rainsbrook (against staff or against other young persons) had doubled between 2016/17 and 2017/18 and had further increased in the period up to March 2019. On average, two-thirds of recorded assaults were between young persons.

⁶ For example, over 40% of all reportable incidents at Feltham A between January and mid-May 2019 resulted in the use of force. At Cookham Wood, there were as many as 541 use of force incidents recorded between January and April 2019.

Segregation

16. In the CPT's report, the delegation found that solitary confinement remained a "real concern" in YOIs. For example, the CPT found that the lack of time out of cell for children in Cookham Wood on weekends was at a level that bordered on solitary confinement-type conditions (paragraph 129).
17. The CPT recommend that authorities ensure that the separation, removal from association, cellular confinement or segregation of children and young people – in whatever form it takes – be applied only as a means of last resort (paragraph 154). In the UK NPM's Isolation Guidance, we state that children must only be isolated as a last resort and if it represents the safest form of intervention in the circumstances. Evidence must also be provided to demonstrate that alternatives to isolation have been considered.⁷
18. At Cookham Wood, the CPT's delegation found the segregation units (the 'Phoenix' unit or Care and Separation Unit) to be in poor material condition. Some children stayed on these units for extended periods of time: of the 178 placements in the segregation unit between May 2018 and April 2019, 47 had lasted more than 14 days. The CPT also found that the lack of a regime on these units, resulting in most boys being locked up in their cells for 23 hours a day, was a clear detriment to their well-being (paragraph 150).
19. At the time of the CPT's visit, Feltham A were re-evaluating how to manage particularly challenging children, after a court ruling resulted in children in Feltham A no longer being placed in the segregation unit in the male-adult estate, Feltham B. The CPT found that no clear solution had been developed. The re-purposed Falcon unit was a well-staffed conflict-resolution area for children where various interventions took place. However, the CPT found that the unit was still in the process of "bedding in", and that most of the children on the unit were locked in their cells. The Enhanced Support Unit (ESU) at Feltham A aimed to be a more caring place for children and young people, which the CPT found commendable. However, they also noted that in practice the ESU operated as a *de facto* segregation centre for young persons placed in the unit under Rule 49 of the YOI rules (paragraph 151).

Regime

20. The CPT report states that YOIs were, at the time of the CPT's visit, unable to offer a full regime for children and young people. For example, young persons benefited only from a curtailed regime; their access to education, sports or health care being severely restricted (paragraph 135). Significantly, during weekends, young persons in YOIs were left locked up most of the day.
21. At Rainsbrook, the CPT found the regime to be purposeful for children and young people. Children had access to time out of their rooms, although the CPT stated that a greater emphasis should be placed on organising group activities (paragraphs 174-77). In addition, the CPT recommends that children be offered at least two hours in the open air each day (paragraph 178).

⁷ UK NPM, Isolation Guidance, January 2017, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2017/02/NPM-Isolation-Guidance-FINAL.pdf>