

Written evidence submitted by The Local Government Association

1. About the Local Government Association

- 1.1. The Local Government Association (LGA) is the national voice of local government. We are a politically led, cross-party membership organisation, representing councils from England and Wales.
- 1.2. Our role is to support, promote and improve local government, and raise national awareness of the work of councils. Our ultimate ambition is to support councils to deliver local solutions to national problems.

2. Secure training centres and secure schools

- 2.1. Despite the improvements that have been seen in youth justice outcomes since 2007, significant issues remain in both youth justice policy and practice. The LGA and our member councils have significant concerns regarding the experiences and outcomes of children and young people in youth custody, including the growing racial disparities and the over-representation of children with special educational needs. We want to work with the Government and sector partners to ensure urgent action is taken to address these issues and ensure the Youth Justice Board's 'Child First' principle, which was introduced in 2019, is embedded at the heart of all policy and practice.
- 2.2. In December 2021, the LGA, alongside the Association of Directors of Children's Services and Association of Youth Offending Team Managers, [published a joint position statement](#), which comprehensively sets out the sector's view on the reform that is needed in the youth justice system. Given the focus the Committee's inquiry, this response will primarily outline the LGA's recommendations for reforming the secure estate to improve the experience of outcomes of young people.

3. Recent challenges within Secure Training Centres

- 3.1. We have significant concerns about the safety of children and young people in secure training centres, and the wider youth secure estate, with Medway and Rainsbrook STCs closing following poor inspections. The last remaining STC, Oakhill, received an [urgent notification for improvement](#) from inspectors in October 2021 due to concerns about the safety and welfare of children.
- 3.2. The majority of children in custody are placed in young offender institutions (YOIs) and STCs. These institutions are typically operated by private contractors utilising practice and routines that are barely adapted from the male adult system and in buildings that frequently adjoin adult prisons. In 2019, the [Independent Inquiry into Child Sexual Abuse](#) concluded YOIs and STCs had a habitually violent atmosphere. We share the inquiry's view that the needs of children in custody would be better served by

the MoJ and DfE sharing policy responsibility for managing and safeguarding children in custodial settings.

- 3.3. Since 2019 the inspectorates have documented an alarming deterioration in conditions and the performance of sections of the secure estate. In summer 2019 the first ever Urgent Notification for a youth custodial setting was triggered for Feltham Youth Offenders Institute, following what was described by the then HM Chief Inspector of Prisons as a “dramatic decline” in performance and conditions. This led to the immediate suspension of new placements ([HMIP, 2019](#)).
- 3.4. Medway STC closed entirely in spring 2020 following a poor inspection and Rainsbrook STC closed in summer 2021 following the issuing of a second Urgent Notification in the space of six months. HM Chief Inspector of Ofsted described the regime there as “bleak,” and children told inspectors that they feared another child or staff member would be seriously harmed or die ([Ofsted, 2020](#), [Ofsted, 2021](#)). [HMI Prisons 2020 annual report](#) shows that the majority of the inspectorate’s recommendations are consistently not being met, including almost two thirds of safety recommendations. There have also been significant concerns identified about the health, safety and wellbeing of the children in the remaining STC in England, Oakhill, which have resulted in the issuing of an Urgent Notification and a pause on new placements.
- 3.5. Diffuse national governance and oversight arrangements play a key role in poor performance of STCs. After the airing of the Panorama programme in 2016, G4S handed back its contract to run Medway STC, it was not removed. More recently [concerns were raised about the extension of MTC’s contract at Rainsbrook STC in early 2020](#), despite a lack of progress in addressing previous failings. Inaction by G4S in addressing concerns raised across six consecutive inspections of the last remaining STC in England, Oakhill, has resulted in an Urgent Notification and a pause on new placements. This level of drift and delay simply would not be tolerated in any other area of children’s services, where they are publicly run. Were a school to be rated as inadequate or requiring improvement for several years, the Department for Education (DfE) would have stepped in and removed or re-brokered these services. Likewise, there is a process for Government intervention where there are significant concerns over children’s social care.

4. The current conditions of youth offenders in secure custody

- 4.1. It is deeply concerning that levels of violence between children, with staff and self-harm in custody are high, and rising, suggesting needs are routinely not being met. In the year ending March 2020 [there were around 7,500 incidents of restraint in YOIs and STCs, up 19 per cent on the previous year and 2,500 incidents of self-harm, up 35 per cent on the previous year](#).

Young people with complex needs

- 4.2. Children and young people in custody often have complex and overlapping education, health and social care needs, which are often not being met. The [latest available Asset+ data on the presenting needs of sentenced children shows](#) that 88 per cent had safety and wellbeing concerns, 75 per cent had substance misuse concerns, 71 per cent had speech, language and communication needs and 71 per cent had mental health concerns.

- 4.3. We also know that one in four children in YOIs and STCs have a special educational need and/or disability (SEND), [however only half that number report they are receiving support](#). As a result of gaps in the current SEND code of practice, children in custody with an education, health and care plan (EHCP) may not be receiving the support they would otherwise get in the community. Almost two thirds of young people involved in the criminal justice system have speech, language and communication needs (SLCN) which are linked to lower attainment and a higher likelihood of not being in education, employment or training. The role that undiagnosed SLCN plays in our understanding of, and responses to, children in conflict with the law has long been recognised, but improvements need to be made to translate this into practice.
- 4.4. Offending behaviours can also mask significant and underlying vulnerabilities in children and young people that may not be immediately obvious or appropriately supported. [Recent research](#), which draws on a sample of 80 YOT case files, underscores this complexity of need and its relation to the risk of offending. Nine in 10 were involved with children's social care; eight in 10 had a known or suspected health issue, were subject to school exclusion or had attended multiple secondary schools; seven in 10 were known or suspected to have lived with domestic violence, were a known or suspected victim of violence or lived in poverty. All 25 girls had received a referral for suspected sexual exploitation. Just one child had no recorded abuse or childhood adversity.

The age of children in custody

- 4.5. The LGA remains concerned that, at 10 years old, England, Wales and Northern Ireland have one of the lowest ages of criminal responsibility (ACR) in the world. This is out of line with other domestic legal minimum ages and contravenes international standards, including the UN Convention on the Rights of the Child.
- 4.6. In May 2019, the [Equalities and Human Rights Commission](#) highlighted that “criminalising children at such a young age can have a detrimental impact on their wellbeing and development and risks making them more likely to reoffend as adults.” A [review for the LGA of the available evidence](#) on different approaches to working with younger children whose behaviour causes harm identified that therapeutic approaches have shown positive results. The review also noted that contact with the criminal justice system generally increases reoffending rates.
- 4.7. As such, we remain concerned about the ability of the youth custody estate to appropriately care for young children and the long-term impact on their development. The LGA supports increasing the ACR to 14, in line with the European average and the recommendations from the UN Convention on the Rights of the Child.

Impact of COVID-19 on young people's experiences in custody

- 4.8. Covid-19 reinforced the fact that children in conflict with the law continue to be defined by their offending status rather than their age or needs and all too often are swept up in adult responses. During the pandemic, vulnerable children were prioritised for school attendance by the DfE during lockdowns, however children in custody were not afforded the same entitlements by the MoJ. National pandemic response and infection control plans did not distinguish between adults and children. Moreover, between April and August 2020, when the government ran an early release scheme for prisoners to reduce the risk of infection in custodial settings, no under 18s were

released due to similar concerns. Daily [custodial routines in YOIs and STCs continue](#) to be disrupted, with visits, time out of rooms and access to education affected.

5. Reforming the custodial estate

- 5.1. As it is clear there are systematic failings in various aspects of youth custody, we want to see a national improvement plan for the whole estate rather than simply reacting to failures in individual institutions. A national improvement plan needs to both address short-term issues and improve the experiences of those young people in youth custody now and deliver long-term reforms including the roll-out of secure schools. Reforms in this space should include improvements to police custody and PACE provision, which provides vital accommodation for children who have been charged with an offence, so that they don't have to stay in police custody any longer than absolutely necessary.
- 5.2. Reform of the secure estate needs to prioritise making it more localised, more responsive to children's needs and, crucially, more compassionate. There is evidence that a smaller estate, with fewer centres further apart, is contributing to children being 'kept apart' from their families and is resulting in growing violence. As a result of the unplanned contraction of the custodial estate, [children are frequently placed some distance from their home authority; more than a third of children \(38 per cent\) are placed 25 – 49 miles from home, with one in 10 placed over 100 miles from home](#). We also know that girls are more likely to be placed at a distance despite their heightened vulnerabilities. Positive family relationships, access to education and training and a sense of connection are all drivers for recidivism, so physical distance adds additional barriers to resettlement efforts and planning, and negatively impacts young people's outcomes.

Health

- 5.3. High numbers of children in custody have ADHD and autism, for example, overlaid with significant trauma and loss, such as bereavement. The [West Midlands Combined Authority research showed almost half of the 80 children included in the sample had mental health concerns, and one in four had self-harmed, attempted suicide or displayed suicide ideation](#). Yet we remain concerned that there are still challenges in access to community and specialist mental health services in the youth custody estate, meaning support is not available to all young people who need it.
- 5.4. To improve conditions in the secure estate and young people's outcomes, it is vital that commissioning, oversight and delivery of health provisions are strengthened. Our members are also concerned about the distinction health services continue to draw between children's emotional and behavioural needs and diagnosable mental health conditions; there is a clear link between trauma, emotional distress and behavioural presentation, which this distinction overlooks. Unmet health needs can then cause an escalation of behaviours, resulting in the child coming into contact with the youth justice system, or children's social care, at the point of crisis. Health partners must take more responsibility for co-commissioning appropriate services for children who have emotional and behavioural needs which affect their mental health both in custody and in the community.

Improving safeguarding

- 5.5. The [Youth Custody Services Safeguarding Review](#) found that the role of the safeguarding lead in custodial settings is often part of wider duties and there is no

requirement for the postholder to be a qualified social worker. We support the recommendation that the safeguarding lead in YOIs, STCs and the forthcoming secure schools, is a qualified social worker. It is also vital that links with the local children's social care team are developed to allow the lead to access a network of peer support and keep up to date with changes in practice.

Addressing workforce challenges

- 5.6. It is clear from recent inspection reports that there are ongoing difficulties in recruiting, retaining and training custodial staff. Turnover is high and those in post are all too often inexperienced and struggle to meet the needs of the children in their care; [there is also evidence that this results in staff turning to the use of force, including pain inducing restraint, to manage behaviours](#). The Department for Education has developed new routes of entry into the teaching and social work professions to broaden the recruitment pool and offer individuals the flexibility to train in a way that suits them, for example, apprenticeships. We would like to see similar innovations in the youth justice sector to attract new recruits and offer strengthened routes of progression to retain the expertise of those already working in the sector.
- 5.7. It is also vital that the Government brings forward a comprehensive analysis of the level and type of need in the youth custodial population, to inform community and custodial workforce plans, particularly as secure schools begin to be established. Recent [projections by the MoJ](#) that the number of children in custody is expected to more than double by September 2024 mean that the need for this work is increasingly urgent. Councils have a wealth of experience to offer from our own workforce, including YOT staff and residential care workers in SCHs, alternative provision and residential special schools, which has not yet been utilised in national planning and development plans. On behalf of the sector, we want to work with the DfE and MoJ to feed this expertise into future planning.

Regulation

- 5.8. Guidance and frameworks continue to focus on risk and offences rather than children's needs and outcomes. The current regulatory framework for YOTs continues to focus on risk in its assessment of local approaches to out of court disposals and diversionary work, rather than focussing on children and young people's experiences and outcomes. This was noted in [a recent report on the implementation of the Child First principle](#).
- 5.9. As the primary regulator of education, safeguarding and social care services, we believe Ofsted should have the lead in assuring all aspects of youth justice services. There needs to be a shift in youth justice services to bring approaches in line with children's services, which prioritise children's welfare and rights. This should be accompanied by a shift towards evidence-based community interventions, such as restorative justice, which will lead to better outcomes for children and victims. Restorative justice approaches have been used for many years in Northern Ireland with impressive results, from reduced use of custodial sentencing and reductions in reoffending to significantly improved victim satisfaction levels.

National legislation and policy context

- 5.10. The MoJ faces multiple and significant challenges in adult prisons, probation services and record levels of delay in the courts. It is not clear that there is either the capacity or experience to lead and deliver a truly Child First youth justice system. On this basis, our members believe youth justice should, at the very least, be a shared portfolio between MoJ and the DfE, with the latter taking the lead. The Youth Justice Board should be entirely relocated to the DfE given its monitoring and advisory role. A clear delineation in responsibilities would be required to overcome the current ambiguity in national arrangements.
- 5.11. In the five years since Charlie Taylor's system-wide review concluded, the principal reforms taken forward have been changes in the remits for, and oversight of, youth justice. The MoJ has taken on an enhanced policy role, the Youth Custody Service has been created to commission placements and quality assure delivery while the YJB has a slimmed down monitoring, research and advice role. It is far from clear if these developments are translating into improved experiences or outcomes for children, particularly those in custody. [The Taylor Review](#) recommended the establishment of an expert committee to offer independent advice and challenge about both policy and operations, which we support. It is also important that additional scrutiny of the youth justice system is introduced, to drive improvements and deliver change.

6. The current progress with establishing a secure school

- 6.1. This lack of tangible progress in implementing national change programmes, most notably the development of secure schools, is of deep concern. We want to see swifter progress in this area.
- 6.2. Secure schools are a new model for youth custody, that have been dually established as both secure children's homes and secure 16-19 academies, and it is the Government's [ambition is for secure schools to become the model for all future youth custody](#).
- 6.3. A recent [report by the National Audit Office](#) noted that the MoJ and HMPPS had only progressed one of the two secure schools that MoJ committed to establishing in 2016. That school, based at the old Medway STC site, was due to open in autumn 2020 and has now been delayed to November 2023, while costs have escalated from £4.9 million to £36.5 million. We therefore have significant concerns that the Government's ambitions for youth custody will not be realised for many years – if at all. Furthermore, by operating under secure children's home legislation, managers of the secure school will have the right to refuse placements if they believe they cannot meet a child's needs or if a placement will impact negatively on other children. While we support the need for placements to meet all children's needs, delays in establishing secure schools mean a lack of alternatives, and therefore the continued likelihood that children will be placed in settings that do not meet their needs.
- 6.4. We welcomed the Government's recent commitment in the Schools White Paper to allow councils to form multi-academy trusts, which should remove the barrier to councils running secure schools. At present, due to a misalignment of legislation and policy, councils are precluded from establishing and running secure schools, despite local authorities' significant expertise and experience of running children's homes, including secure children's homes, and children's services.

6.5. Although it is legally possible under the Academies Act 2010 for a local authority to set up an entity capable of entering into academy arrangements directly with the Secretary of State, it is Government policy that academy trusts should not be local authority-influenced companies. The MoJ is mirroring academies policy for secure schools, which they say is for consistency and due to the practical barriers associated with local authorities having to set up separate legal entities to enter into secure school agreements. Therefore, in practice, councils cannot establish or run secure schools. We hope that this issue is effectively resolved through the forthcoming Schools Bill, to ensure councils have the flexibility to run secure schools, if they choose to do so to best meet local needs.

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