

Written evidence submitted by Children's Commissioner's

Introduction

- It is the Children's Commissioner's view that education in prisons should serve to improve life chances for children in custody, to increase educational opportunities and skills and increase employability and prevent reoffending by giving them the best opportunities when they leave custody and to help them get on in life.
- Most children in custody have had difficult and disjointed educational experiences. In 2017/18, 85% of boys in Youth Offender Institutes (YOIs) had been excluded from school before coming into custody. 71% of children in custody have identified mental health needs which can also be a barrier to learning.¹ These children need significant support and encouragement to engage with learning, which the current system does not always provide.
- Custodial provision for children does not do enough to meet children's underlying needs, such as addressing their mental health or experience of trauma, to allow them to engage meaningfully with education. This has likely been exacerbated by the Covid-19 pandemic, with children spending in excess of 20 hours in their cells for much of the initial lockdown period (and far beyond this point for some children),² which is detrimental to children's wellbeing and may well have lasting consequences for their mental health.³
- Existing provision is not always sufficient to meet the different learning needs of the population. 71% of children in custody have Special educational needs (SEN) and teachers are not always well-equipped to cater to these needs.⁴ The curriculum in different prisons does not always deliver the right content for children and the quality of teaching – both in terms of specialist subject knowledge and ability to deal with challenging behaviour – is highly variable.
- The Secure School initiative provides an opportunity to overhaul the education available to children in custody. It is vital that this opportunity is used to provide: a greater focus on therapeutic interventions to ensure children are ready to learn; high quality teaching staff who can meet children's learning needs and motivate them to engage with education; and a curriculum which gives children the skills and qualifications they need to turn their lives around.
- There is also an urgent need to reduce the pipeline of children into custody. Given the well-established link between school exclusion and criminalisation, more must be done to keep children within mainstream education. The Government should use the proposed reform of Alternative Provision to discourage exclusions and improve the quality of AP to give children the support they need to re-enter mainstream education settings following exclusion. There must also be a better safeguarding response from agencies when children are at risk of exploitation.⁵

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887644/assessing-needs-of-sentenced-children-youth-justice-system.pdf

² <https://www.bbc.co.uk/news/uk-55364754>

³ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/05/cco-children-in-custody.pdf>

⁴ Understanding the Educational Background of Young Offenders, Department for Education and Ministry of Justice, December 2016. 71% is based on children sentenced to custody for any length of time, who were at the end of KS4 in 2012/13. (This figure combines children with and without a statement).

Children's education histories

Prior to entering custody, many children have had difficult and disjointed educational experiences and the level of past engagement with education and general levels of ability varies widely.

Levels of need are higher among children in the criminal justice system than in the general population:

- 71% of children sentenced have identified mental health needs;⁶
- 71% have speech, language, and communication needs;⁷
- SEN are also common, with 71% of children sentenced to custody in 2014 recorded as having SEN.⁸

There is also a well-established link between vulnerability, school exclusion and criminalisation which is discussed later in this submission. Children's range of additional needs present practical challenges in delivering education which works for everyone in the classroom.

In addition to the practical challenges, high levels of vulnerability in the cohort can also hinder the effectiveness of any education which is offered. The effect of the barriers which impeded children's learning in the community – structural disadvantage, poverty, unmet health needs, developmental disorders and a general antipathy to education – are still felt when children enter custody.⁹ For these children, it is likely that a focus on education within an environment which is not inherently therapeutic will not be enough to help them succeed. In these cases, work to address underlying vulnerabilities is often necessary before children are ready to learn. These children need 'high quality care, emotional support, the development of trust, and in some cases, therapeutic interventions' to get them ready to meaningfully engage in education.¹⁰ Unfortunately, adequate levels of such support are not currently available in STCs and YOIs.

Quality of education in the secure estate

Education in Secure Training Centres (STC's) and Young Offender Institutions (YOIs)

Through our rolling programme of prison visits, we have observed lessons in STCs and YOIs and have found them to be of varying quality. There are some good examples of education activity which children enjoy and are motivated to undertake – for example, the popular

⁵ <https://www.childrenscommissioner.gov.uk/report/keeping-kids-safe/>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887644/assessing-needs-of-sentenced-children-youth-justice-system.pdf

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887644/assessing-needs-of-sentenced-children-youth-justice-system.pdf

⁸ Understanding the Educational Background of Young Offenders, Department for Education and Ministry of Justice, December 2016. 71% is based on children sentenced to custody for any length of time, who were at the end of KS4 in 2012/13. (This figure combines children with and without a statement).

⁹ <https://thenayj.org.uk/wp-content/uploads/2019/02/NAYJ-Briefing-Transformation-of-Youth-Custody-May17.pdf>

¹⁰ <https://thenayj.org.uk/cmsAdmin/uploads/state-of-youth-justice-2020-final-sep20.pdf>

'gym' pathway at Oakhill STC. On our visits, children speak highly of this course and it was recognised in the last full inspection by Ofsted as one of a number of subjects in which children learnt much from their 'specialist teachers [who] encourage enthusiasm about learning and are knowledgeable in their subjects'.¹¹ Inspectors noted that 'children following the personal trainer course in the gym, for example, can articulate in detail their understanding about anatomy and the benefits of exercise, and they commented on how well they were progressing over time.'

However, children raise a number of concerns about their education provision. These include: limited options of qualifications to sit; classroom environments not being conducive to learning (due to poor behaviour management) and not being stretched by the material – in one class we observed a very bright boy of around 15 who expressed his frustration after being given only a very simple wordsearch which took him a minute to complete while other classmates needed much longer. In the worst cases, education provision can be formulaic, serving as a tick-box exercise to ensure children are in a classroom for the specified amount of time, rather than focused on the impact and outcome of that education for the individual child.

Factors which affect the quality of education include the curriculum provided, the learning environment and the strength of teaching practice. Successive inspection reports have highlighting variable practice in these areas. The last full inspection of Feltham YOI found that teachers lacked the knowledge to support children's additional learning needs, and that persistent behaviour problems in the classroom were affecting children's educational outcomes.¹² The recent scrutiny visit to Rainsbrook STC also highlighted that 'the education curriculum requires further development in order to meet children's learning needs.'¹³

Engagement in education can also be poor – some possible reasons for this are explored below – which means that staff have to make a concerted effort to get children to engage. At the last full inspection, Wetherby YOI was praised by HM Inspector of Prisons for developing 'a strong ethos for improving the engagement of children in education, reducing considerably the amount of outreach provision delivered', though inspectors noted a need to manage unauthorised absences and better monitor children who had been withdrawn from education.¹⁴

Additionally, across STCs and YOIs, existing initiatives such as Release on temporary License (ROTL) are not being taken advantage of. ROTL could be used greater effect both to aid in educational activities - for example allowing children to attend education courses in preparation for release- but also for other factors important to effective resettlement, such as maintaining family relationships and securing suitable accommodation.

Education outcomes for children in custody

Much more could be done to provide educational opportunities which can follow children when they are released into the community. A recent thematic review by HM Inspector of

¹¹ <https://files.ofsted.gov.uk/v1/file/50081527>

¹² <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2019/10/Feltham-A-Web-2019.pdf>

¹³ Rainsbrook Monitoring Inspection Report: <https://files.ofsted.gov.uk/v1/file/50157650>

¹⁴ <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2019/07/Wetherby-and-Keppel-Web-2019.pdf>

Probation highlighted the lack of collaboration between education services in prison and the community, with many children leaving custody without education or training in place.¹⁵

Existing data on the educational attainment of children in custody is inadequate. There has been some linkage of data by the Ministry of Justice and the Department of Education, however the focus of this data is on understanding children's educational histories before becoming involved in the justice system, rather than following their attainment in custody and beyond. This means we have a good understanding of the underlying needs of children in custody – educational and otherwise. However, there is no reliable data about the education, training and employment outcomes for children leaving custody (although we understand that the YJB is working to improve the data they collect).¹⁶

Barriers to providing effective education in custody

Regimes in STCs and YOIs are not always conducive to delivering even their stated education 'offer'. Countless inspection reports highlight that children are missing out on substantial portions of their education because of the way in which institutions are run – for example hours of learning are lost because children are confined to their cells. The most recent inspection of Cookham Wood YOI, in February 2020, found that 28% of children were confined to their cells during the school day. Risk-averse operational approaches have also impacted on the delivery of education and of other interventions, such as healthcare appointments and offending behaviour programmes.¹⁷ For example, staff attempted to avoid violence by using 'keep apart' lists of children who cannot associate with others in the prison and going to great lengths to ensure these children (or groups of children) do not even pass one another in the corridor, which increases the amount of time it takes to move children to/from education, eating into the time which should be spent learning and wasting resources .

Impact of Covid-19

In the wake of the pandemic, education provision was revoked for around 3 months. This was the result of a national directive from HMPPS to stop all face-to-face education for children in STC's and YOI's in line with the adult estate, followed by regulation changes introduced in 2 statutory instruments which curtailed children's entitlement to education - alongside other changes to entitlements to time out of cell and visitation rights. In YOIs this meant only 'reasonable endeavors' had to be made to provide education to children. These changes were not replicated in the community, with other vulnerable children still entitled to education throughout this period, despite the challenges caused by Covid-19. By comparison, children in Secure Children's Homes were able to maintain a close to full timetable for children throughout the lockdown period, with full access to in-person education.

¹⁵ <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-resettlement-%E2%80%93-final-report-into-work-in-the-community-4.pdf>

¹⁶ <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/10/Youth-resettlement-%E2%80%93-final-report-into-work-in-the-community-4.pdf>

¹⁷ https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/04/Cookham-Wood-Web-2018_v2.pdf;
<https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/10/Feltham-A-Web-2019.pdf>;
<https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/06/HMYOI-Werrington-Web-2019.pdf>

Furthermore, the ‘education provision’ which was available to children between March-June¹⁸ – largely using education packs for children to use in their cells- was not always properly monitored. Rainsbrook’s recent inspection report, found that:

*“children received education work packs to complete in their residential units during most of the Covid -19 restrictions as all education classes were suspended. Leaders and managers did not carry out sufficient analysis to measure how many children have successfully engaged in this learning activity and therefore they are unaware what benefit this activity has had for children’s progress and learning.”*¹⁹

This reduction in access to education is likely to harm children’s educational outcomes which in turn may hinder successful rehabilitation and plans for their transition back into the community. It is also further evidence of the lack of focus and attention given to the education of children in prison.

The link between school exclusion and criminalisation

Exclusion can lead to youth offending

Exclusion from school is too often a pathway into the criminal justice system. In 2017-18, 85% of boys in YOIs had been excluded from school before coming into custody.²⁰ Exclusion heightens a child’s vulnerability, reducing their access to support, a structure and the opportunity to build relationships with trusted adults and friends. The vacuum left behind makes them more vulnerable to criminal exploitation, gangs and other threats, increasing their likelihood of offending. Children’s Commissioner research has shown that gang associated children aged 5-15 are five times more likely to have had a permanent exclusion in the previous academic year.²¹

Exclusion can be driven by unmet needs

Exclusions are not inevitable. Often they result from missed opportunities to identify children who are struggling and to put the right support in place to remain in mainstream education.

For example, exclusion rates are notably higher among pupils with special educational needs and disability (SEND). When children with SEND do not get the help they need in the classroom, they can become bored, frustrated and upset, which might manifest as challenging behaviour. Children with identified SEND accounted for 44% of permanent exclusions in 2018/19.²² Many more of these exclusions might have been accounted for by children with SEND needs which had not been identified - as stated in the Committee’s 2018 report into AP, many children arrive in AP schools with unidentified needs.

¹⁸ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/05/cco-children-in-custody.pdf>

¹⁹ <https://files.ofsted.gov.uk/v1/file/50157650>

²⁰ https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf

²¹ <https://www.childrenscommissioner.gov.uk/report/keeping-kids-safe/>

²² <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2018-to-2019>

Children in care are also disproportionately affected by exclusion. In 2018, looked after children were five times more likely than the general population to have at least one period of fixed term exclusion.²³

Early intervention in school can reduce exclusion and entry into criminal justice system

The number of children being excluded, and therefore the pipeline of children moving into the criminal justice system, can be reduced by offering them greater support to stay in mainstream education. This can only be delivered with greater funding. For example, even before the current pandemic the SEND system was under severe pressure, with councils facing a funding gap of £1.6 billion. The most recent Spending Review delivered an additional £300m for SEND, but this was to be spent on special schools alone. The SEND review should ensure the right resources and systems are in place so that more children receive the support they are entitled to, and that children's needs are identified earlier – something which is critical to securing positive outcomes.

Low level mental health problems among children who do not qualify for CAMHS can also be a key driver of challenging behaviour and exclusions. As research from our office makes clear, funding for low level mental health services varies significantly across England and in some areas is falling in real terms, despite demand growing.²⁴ These services need to be monitored and prioritised at a national level. The implementation of the Government's Green Paper on mental health should be accelerated so that every child can access counselling in school.

This extra support should be accompanied by strong messaging from Government that exclusions should only be used as a matter of last resort, when everything possible has been done to help the child to remain in mainstream education and where their behaviour threatens staff and/or other children. Only a small minority of schools exclude children – in 2018/19 the 10% of schools with the highest numbers of permanent exclusions accounted of 88% of permanent exclusions.²⁵ These schools need to be held to account. Primary school exclusions should be banned.

Alternative Provision (AP) needs to change to be effective

Excluded children are often placed in Alternative Provision, such as in Pupil Referral Units (PRUs). When it is used well and is of high quality, AP can help children turn their lives around, and make positive moves into further education, training or employment.

However, the data suggests that AP in its current form fails to produce good results for the majority of children:

- 71% of children in PRUs are persistently absent
- Only 4.5% pass GCSE English and Maths

²³ <https://www.gov.uk/government/statistics/outcomes-for-children-looked-after-by-local-authorities-31-march-2019>

²⁴ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/04/Early-access-to-mental-health-support-April-2019.pdf>

²⁵ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/05/five-things-exclusions.pdf>

- 40% become NEET when they leave at 16.²⁶

Although there are examples of excellent practice in the sector, the quality of AP is generally poor. AP schools struggle to recruit staff, and therefore often have to rely on unqualified teachers. This can result in chaotic classroom environments which fail to engage children. This is despite the average cost of a place at a PRU being over £21,000 – more than three times the average cost of a secondary school place (£5,771) and over four times the cost of a primary school place (£4,864).²⁷ Children can become more vulnerable to criminal exploitation as a result of attending AP schools, which have been known to be targeted by gangs.

Effective AP would produce positive outcomes for children, many of whom could return to mainstream education with the right support. The Government has committed to expanding AP. This should be used as an opportunity to break down the barriers between AP and mainstream, allowing children to more easily move between the two as their needs evolve, and reducing the likelihood of exclusion and entry into the criminal justice system. Some areas are leading the way and implementing a “hub and spoke” model whereby AP is delivered in mainstream settings. This should be the vision as the Government delivers on its aim to expand AP.

Conclusion

In summary, prison education is not set up to deliver the best outcomes for children in custody, particularly those with additional learning needs. There needs to be a greater focus on providing therapeutic support to ensure children can learn and delivering a curriculum which gives children the knowledge and skills they need to succeed when they return to the community. Teaching staff in prisons must be specialists who can deal with the varied learning and behavioural needs of the cohort. Changes must also be made in the way timetables are managed to ensure children are moved around the prison safely and efficiently so they can reap the benefits of the education (and other interventions) on offer.

Furthermore, more attention must be paid to the education and training opportunities for children upon release into the community and collecting better data on this is an important first step.

The Secure School initiative must be harnessed to reshape education in custody which provides: a greater focus on therapeutic interventions to ensure children are ready to learn; high quality teaching staff who can meet children’s learning needs and motivate them to engage with education; and a curriculum which gives children the skills and qualifications they need to turn their lives around.

More must be done to ensure fewer children end up in custody, with particular focus on the link between vulnerability, exclusion, and criminality. The proposed reforms to AP provide a useful opportunity to do this, and DFE should discourage exclusions, and improve the quality of AP to give children the support they need to re-enter mainstream education settings following exclusion.

²⁶ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/05/five-things-exclusions.pdf>

²⁷ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/05/five-things-exclusions.pdf>

A better safeguarding response from agencies is needed for children at risk of exploitation, which in turn would reduce the numbers entering custody. Agencies should work together to identify key points for intervention to protect children from harm, such as when a child is excluded from school.

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