

January 2020



CLINKS
RESPONSE

The Justice Committee's inquiry into children and young people in custody

Submitted October 2019

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of people in the CJS and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 13,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

Clinks manages the National Criminal Justice Arts Alliance, a national network of over 800 artists, arts organisations and criminal justice practitioners using creative approaches to reduce reoffending. We also support a network of women's centres and specialist women's services working in the CJS.

About EQUAL

EQUAL, the successor to the Young Review into improving outcomes for young black and/or Muslim men in the CJS,¹ was set up to continue its important legacy. EQUAL brings together experts from the voluntary sector and academia with a wealth of experience and insights into criminal justice. The secretariat for EQUAL is provided by the Black Training and Enterprise Group (BTEG).

EQUAL's vision is a CJS that delivers fair outcomes for all. To support this, EQUAL provides advice, support and scrutiny to those involved in the development and delivery of criminal justice practice and policy to help create a system free from unfair outcomes for black, Asian and minority ethnic (BAME) people. EQUAL's policy priority areas include the policing of young BAME people and the youth justice system.



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About Barrow Cadbury Trust

Barrow Cadbury Trust are an independent charitable foundation committed to bringing about socially just change. Barrow Cadbury works in partnership and collaboration with a number of stakeholder to address complex issues and identify solutions. They focus on a small number of distinct policy areas, one of which is criminal justice, and try to influence them by building an evidence base, advocating for change and ensuring the voices of people affected by social injustices are heard in the debate.

Barrow Cadbury's aim is to strengthen the evidence base for structural and practical change for young adults and women supporting rehabilitation and desistance from crime, by funding and disseminating research, policy and good practice, and by campaigning with others for change. Barrow Cadbury influences and supports the criminal justice system to achieve better social and economic outcomes, in particular a system that better accounts for the distinct needs and contexts of young adults, women, and people from BAME communities.

About this response

This is a joint response by Clinks, EQUAL and Barrow Cadbury Trust. We welcome the opportunity to respond to this consultation and have answered the questions of most relevance to our work and expertise. Our response specifically focuses on the experience and outcomes of BAME² children in the youth justice system. To inform our response we held a consultation event with 13 representatives of BAME-led organisations, community activists and people with lived experience of the CJS. We draw on their advice throughout as well as our work leading the Young Review on outcomes for young black and Muslim men in the CJS and to support the sector to engage with the development and implementation of the Lammy Review.

Summary of recommendations

- We recommend a theory of change approach for the youth justice system that is child-centred, welfare-based and fully adopts the United Nations Convention on the Rights of the Child (UNCRC). The youth justice system should have outcomes that are framed within a proper understanding of desistance theory within which children's welfare and wellbeing would be an essential, mutually supportive and complimentary element. To support this, children should only be deprived of their liberty when they pose a serious risk to themselves or others and where there are genuinely no alternative options for mitigating that risk in the community. The few children that warrant a custodial sentence should be held in small, community-based, non-penal institutions that provide therapeutic environments.
- We recommend that the youth justice system put structures in place to operationalise 'explain or reform', including systems in place to identify when something should be subject to the principle and policies, stating who is responsible for explaining disparities and to whom; and structures that provide clarity on who is able to decide when an explanation is sufficient and what form of change is appropriate.



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- We recommend the current requirements for each institution to establish a forum for reviewing the Incentives and Earned Privileges scheme,³ be expanded so that all youth custody institutions establish scrutiny panels or forums which review a wider set of outcomes for BAME children in custody. These forums must include children in custody that are representative of the demographic in the institution. BAME-led voluntary sector organisations, governors and youth justice officials should also be involved. There should be a formal mechanism for providing feedback to children on the topics raised at the panels and the actions taken to respond to the concerns or complaints raised.
- We recommend specific strategies for targeted preventative and diversionary action in relation to BAME children, with the aim of reducing their criminalisation and exposure to the youth justice system, reducing disproportionality in the secure estate and to ensure that staff are not consciously or unconsciously engaging in racial stereotyping.
- A consistent cross government approach is required that meets need rather than risk of BAME children both at risk of, and in contact with, the CJS.
- We recommend that the youth justice system create opportunities for engagement with specialist voluntary sector organisations in the development and delivery of diversity training for all staff working in secure institutions.
- All staff need training on trauma-informed practice and the impact of Adverse Childhood Experiences. Training standards should be rooted in an understanding of children's psychosocial development and the importance of relationships, alongside greater opportunities for continuous development and recognised career progression for staff working in all settings with vulnerable children.
- We recommend that parents or other representatives are informed of incidents; that children and representatives have access to appropriate advocacy in an accessible format so that they understand their rights and how to assert them; that children are given the information they need to raise a complaint; and that any breach of rule by staff with regards to restraint results in disciplinary action that is communicated to the child and family.
- We recommend that time out of cell be increased in order to create a culture which is welfare-centred and encourages children's active participation in meaningful activities that support their development and desistance. By overusing time in cell as a mechanism for dealing with violence or leveraging it as an incentive or reward, those confined to the most basic regime who may be most in need of interventions and support which could improve their outcomes will be excluded from them.
- We recommend a more flexible approach to education which should include greater access to arts and creative opportunities and opportunities tailored to the needs and interests of the child, particularly ensuring that the curriculum enables the development of positive self-identity amongst BAME people.
- We recommend that the youth justice system across custody and youth offending teams (YOTs) explore ways to record, six and 12 months after release, young people's educational and (where applicable to their age) employment outcomes. This should also include working with the National Probation Service (NPS) for those children who transition to the adult justice system during their sentence. The data should be broken down by ethnicity and gender.
- We recommend that youth justice agencies reinvest in partnership working with the BAME-led, specialist voluntary sector in order to provide effective, joined up responses to BAME children. To enable participation of specialist BAME-led organisations in youth justice, appropriate procurement processes that include grant funding are essential.
- Youth justice institutions should adopt a voluntary sector co-ordinator similar to that described in the Good Prison project, to streamline interventions.



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- We recommend community-based opportunities – including mental health and emotional support – be identified and planned for at the earliest opportunity to provide a seamless transition from the secure estate on release. For continuity of care, a single, consistent worker should be attached to the young person throughout their sentence and a consistent point of contact through their licence period that they have engaged with prior to release.
- We recommend that transition to adulthood is explicitly addressed by developing a clear youth justice standard on the management of transitions from the youth to adult estates and ensuring that the strengthened inspection regime for youth justice services monitors and reports on its effective application, with particular attention paid to outcomes for BAME young adults and care leavers.

Response

Question 1: How has the young offender population changed and what are the challenges in managing this group?

a. What are the characteristics of those entering the youth justice system?

This year, for the first time on record the number of BAME children in the youth secure estate outstripped the number of white children in custody, making up more than half of the custodial population.⁴

- One in eight children in Secure Training Centres (STCs), and nearly a quarter of boys in Youth Offender Institutions (YOIs) identify as Muslim, in comparison to just 4.2% of the general population.⁵
- 11% of those held in STCs and 6% of those in YOIs said they were from a Gypsy, Romany or Traveller (GRT) background. This is over 100 times greater than the estimated 0.01% of the general population from a GRT background.⁶
- Black children make up by far the highest proportion (56%) of BAME children in the youth estate and 31% of the overall youth custody population.⁷

Children in custody overwhelmingly come from socially and economically excluded backgrounds and poor educational backgrounds. This is exacerbated for BAME children who experience additional inequality and discrimination, making them more likely to be in poverty, live in deprived areas, and receive poor education and healthcare.

Looked after children;⁸ children with learning disabilities or difficulties;⁹ and children that have been excluded from school,¹⁰ are overrepresented in youth custody and around a third of children in custody also report having a known mental health disorder.¹¹ In 2016 it was estimated that 44% of looked after children in custody were from an ethnic minority background. Black children are particularly more likely to be excluded from school.¹² Attendees at our consultation stressed the damaging consequences of the 'school to prison pipeline' on black children.

As the Standing Committee for Youth Justice (SCYJ), of which Clinks is also a member, have highlighted in their response, there is consistent evidence of the damaging impact contact with the CJS can have on this vulnerable group of children and their future life chances.



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b. What is the experience of black, Asian and minority ethnic offenders of the youth justice system and secure estate and what progress has been made in implementing the recommendation of the Lammy Review?

Analysis of youth custody data by our colleagues at SCYJ shows that across different age groups, BAME children are more likely to be placed in less welfare-based, higher security institutions. For example, older BAME children are more likely than their non-BAME peers to be placed in YOIs, rather than STCs or secure children's homes. This was reinforced by our consultation where attendees raised concern that the way the youth justice system perceives and responds to BAME children is driven by a risk management approach rather than a needs driven approach to the child's welfare.

There are further concerns amongst BAME voluntary sector organisations about the impact of the assumptions made about and labelling of BAME children in custody, in particular black children. For example as being gang-affiliated and more violent than their non-BAME peers. Whether conscious or unconscious, stereotyping of BAME children in these ways affects how their actions and behaviours are perceived and responded to in custody, impacting the interventions provided, risk assessments, progression, and the way punishments are given. BAME children are less likely to report being treated fairly by the rewards and sanctions scheme in youth custody institutions than their white peers.¹³ The attendees we consulted with, emphasised to us the re-traumatising effect of this stereotyping for BAME children who will have faced discrimination and stereotyping prior to custody.

The use of technology in the CJS is growing and providing new ways to assess the risk that individuals could pose. For example, MoJ have introduced in the adult prison estate a new digital categorisation tool to assess the risks prisoners pose of violence, escape, or becoming involved in organised crime. However, any potential future use of technology in the CJS needs to be closely monitored to ensure that the bias and risk-based approach to BAME children described above does not become hardwired into the youth justice system. As the Lammy review highlighted, scrutiny mechanisms need to keep pace with the development and use of this technology to ensure transparency in decision-making and accountability for any disparity of outcome it might lead to.

BAME girls in the custodial estate represent a minority and it was felt amongst attendees at our consultation events that their needs were not given sufficient attention. Girls in custody are more likely to have experienced abuse and more likely to be assessed as at risk of self-harm or suicide¹⁴ and therefore require gender-informed, holistic interventions. However when considering gender-informed approaches the diversity of girls is often forgotten, leaving BAME girls, who experience the intersection of racism and sexism, excluded from the benefit of such approaches.



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Voluntary sector representatives told us that BAME girls are stereotyped by their ethnicity and black girls especially are often seen as angry and aggressive. This they said leads to less understanding of BAME girls' experiences, emotions and reactions and how this is impacted by experiences of trauma, abuse, and racism. As a result black girls were felt to receive less support for their wellbeing, emotional and mental health and were treated as a risk rather than as vulnerable children with needs.

The harsher treatment of BAME girls is indicated in their placement in the secure estate – a higher proportion of BAME girls are placed in STCs – and in the use of remand where BAME girls are significantly overrepresented compared to the sentenced population.¹⁵

The level of detail in the Ministry of Justice's (MoJ) update on tackling racial disparity¹⁶ implies significant activity. There was never going to be a quick solution to race inequality in the CJS, but the fact that disproportionality in youth custody is worsening is a damaging indictment of the work done and shows there is much more to do.

The Lammy review's recommendation to implement an 'explain or reform' principle has been, according to the MoJ, adopted by justice agencies as an overarching principle for cultural change.¹⁷ It is disappointing not to see specific structures being put in place to operationalise this principle. Without specific processes and structures in place, there is a danger that it will be a principle in name only and will not provide any transparency or accountability or lead to any significant change.

Much more could be done to listen to and act upon the views and experiences of BAME children. BAME children are far less likely to report that they could speak a member of the Independent Monitoring Board for example.¹⁸ BAME children – and their families – should have a formal voice in each institution that enables them to be involved in the scrutiny and accountability of youth custody practice and be actively involved in finding solutions, decision-making and reforms, for example through forums, committees and scrutiny panels.

We recommend that the youth justice system put structures in place to operationalise 'explain or reform', including systems in place to identify when something should be subject to the principle and policies stating who is responsible for explaining disparities and to whom; and structures that provide clarity on who is able to decide when an explanation is sufficient and what form of change is appropriate.

We recommend the current requirements for each institution to establish a forum for reviewing the Incentives and Earned Privileges scheme, be expanded so that all youth custody institutions establish scrutiny panels or forums which review a wider set of outcomes for BAME children in custody. These forums must include children in custody that are representative of the demographic in the institution.¹⁹ BAME-led voluntary sector organisations, governors and youth justice officials should also be involved. There should be a formal mechanism for providing feedback to children on the topics raised at the panels and the actions taken to respond to the concerns or complaints raised.



c. How effective is the youth justice system in diverting children and young people away from custody and what more needs to be done?

For Clinks' submission to the Taylor review,²⁰ we spoke to voluntary organisations who raised concerns that BAME children were excluded from diversionary opportunities such as referral orders and restorative approaches because their ethnicity is perceived through a lens of risk, leading to a perception that they are 'unmanageable' and beyond the reach of such initiatives. Resulting in their rapid escalation through the youth justice system.

The Lammy review recommended the wider rollout of 'deferred prosecution'. While we see the merit of this model, ethnicity is not a selection criterion for eligibility for such schemes and we are concerned that the creation of diversionary pathways will not in and of itself address BAME disproportionality. Such interventions and pathways need to be targeted if they are to actually improve outcomes specifically for BAME children.

BAME-led voluntary sector and grassroots organisations have specialist knowledge and expertise, and are better equipped to build trusting relationships with BAME children, encourage their engagement in programmes and support their development. In order to ensure effective and appropriately tailored diversion pathways, BAME-led organisations should be appropriately funded to support their design and delivery and provide sufficient funding for them to deliver interventions.

Our consultation for this response highlighted the challenge in diverting BAME children from the system entirely in the context of current policy around policing of youth violence. The extension of stop and search, an emphasis on the gang narrative defining young black people as a risk, as well as the mandatory custodial sentencing aimed at deterring knife crime – which as SCYJ highlight, leads to many children imprisoned for possessing, but not using knives – has made it harder for organisations to deliver prevention and early intervention work that is aimed at minimising contact with the justice system. These policies are also damaging to any trust that the justice system would try to build with BAME children making them less likely to engage and impacting how their 'attitude' is perceived by staff, reinforcing unfair and punishing treatment.

The impact of these factors can also be seen in the use of remand on BAME children and shows that they are more likely to be drawn into custodial institutions rather than diverted away. The overrepresentation of BAME children has been found to be even higher for remand than for the sentenced population, and this disproportionality increases as the remand period lengthens. For example at the end of 2018, of those remanded for over 6 months, 62% were BAME children. Remand is a daunting and stressful experience for children that they have no time to prepare for, and children on remand report feeling less safe than those serving sentences.²¹

We recommend specific strategies for targeted preventative and diversionary action in relation to BAME children, with the aim of reducing their criminalisation and exposure to the youth justice system, reducing disproportionality in the secure estate and to ensure that staff are not consciously or unconsciously engaging in racial stereotyping.

A consistent cross government approach is required that meets need rather than risk of BAME children both at risk of, and in contact with, the CJS.

Question 2: Is the secure estate a fit and proper place to hold children and young people?

b. What is the physical condition of the secure estate and is it an appropriate environment to hold children and young people?

e. What other barriers are there to providing safe and decent accommodation in the secure estate and what more can be done to improve this?

The secure estate is a volatile and currently unsafe environment for children. A thematic inspection showed that witnessing or experiencing bullying and violence were part of everyday life for children in custody.²² Assaults and self-harm incidents reached the highest they have been in the last five years, increasing by 29% and 40% respectively this year. The number of self-harm injuries requiring medical treatment more than doubled.²³ Children were also significantly more likely to say that they were victimised because of their religion and their nationality. GRT children report particularly negatively with regards to feeling safe.²⁴

The constant exposure to violence, bullying and intimidation while being unable to feel safe and stable in the environment they live in, is not conducive to the wellbeing and development of children and their desistance journey. This is particularly the case for BAME children who can face additional racist bullying highlighted above, unfair treatment and unequal outcomes throughout their time in custody. Such conditions and treatment prevents trauma-informed work with children that supports them in processing their adverse experiences.

d. Do staff receive appropriate training and support and what more can be done to improve this?

BAME children continue year on year to report more negatively about staff treatment and the respect they are shown. They are also significantly less likely to report that staff offer help across a variety of issues.²⁵ It is important that all staff in youth custodial settings are able to understand and respond to the experiences and needs of BAME children, however there is a lack of diversity amongst staff that work in youth custody, including in mental health, education and accredited programme facilitators. Diversity training has too attracted criticism for not adequately reflecting the needs and experiences of people with protected characteristics²⁶ and for poorly addressing the unequal outcomes they experience in the CJS.

Clinks and BTEG have repeatedly called for the involvement of specialist voluntary sector organisations in reviewing and delivering diversity training for criminal justice staff at all levels. Specialist voluntary sector organisations that are led by and for BAME and Muslim communities have in-depth and valuable knowledge of the distinct needs and experiences of a diversity of service users, and significant expertise in tailoring approaches to them.

We recommend that the youth justice system create opportunities for engagement with specialist voluntary sector organisations in the development and delivery of diversity training for all staff working in secure institutions.

Vulnerable children should be receiving psychologically informed support based on their needs at any point of their journey through the justice system and beyond. There is a requirement at every level for well trained, highly skilled, and adequately paid staff. Staff should be trained in trauma-



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informed approaches with a strong understanding of the impact of Adverse Childhood Experiences so as not to trigger trauma and to minimise the impact of those experiences on them in later life. It was felt by attendees of our event that 'trauma-aware' or 'trauma-informed' has become terminology that many stakeholders use but do not understand and do not embed in their work.

All staff need training on trauma-informed practice and the impact of Adverse Childhood Experiences. Training standards should be rooted in an understanding of children's psychosocial development and the importance of relationships, alongside greater opportunities for continuous development and recognised career progression for staff working in all settings with vulnerable children.

f. Is the use of force in the secure estate proportionate and properly monitored?

Restraint is a distressing and psychologically harmful experience for children, which can be physically painful and cause injury. The use of restraint in the secure estate has increased and has been deemed unacceptably high by the Joint Human Rights Committee.²⁷ It has also been found to be disproportionately excessive for BAME children. For the year ending March 2018, the rate of use of force per 100 children in custody was 57.2 for BAME children compared to 48.5 for their white peers.²⁸

Poor data collection makes it far harder to hold custodial institutions and staff to account. Even so, the available data shows there are too many cases in institutions where the use of force has been disproportionate, unnecessary, or avoidable if de-escalated effectively. It has been estimated that potentially thousands of unjustified restraints are conducted each year (in custodial and hospital settings).²⁹

The disproportionate use of force against BAME children is an example of how conscious and unconscious bias interacts with a risk focused system to produce unequal outcomes. If staff are more likely to perceive BAME children as risky and unmanageable, they resort more quickly to using force against them. As a result, BAME children are put at higher risk of psychological and physical harm.

In this context more needs to be done to ensure children in custody are sufficiently aware of their rights. BAME children in custody face greater difficulties in accessing their rights and have less confidence in the appeals system. For complaints in the youth estate, BAME boys are significantly less likely than non-BAME boys to feel that complaints are responded to fairly (26% compared with 41%). GRT boys are significantly more likely to report feeling too scared or intimidated to make a complaint in the first instance.³⁰ It is vital that they and their guardians have the necessary information and advocacy support to access their rights and be empowered to challenge bad practice.

We recommend that parents or other representatives are informed of incidents; that children and representatives have access to appropriate advocacy in an accessible format so that they understand their rights and how to assert them; that children are given the information they need to raise a complaint; and that any breach of rule by staff with regards to restraint results in disciplinary action that is communicated to the child and family.



Question 3: Is sufficient support available in the secure estate and community to ensure that children and young people do not reoffend and if not, what more should be done?

a. Are children and young people able to access purposeful activity, education, healthcare and other support as needed whilst in custody?

The voluntary sector provides a wide range of services to children in custody including activities and interventions that support children to build new skills that provide the foundation for desistance and prepare them for resettlement. However the amount of time spent in cells and the use of segregation and separation restricts children's access to these vital services.

Measures to address increasing violence have reduced time out of cell, leaving too many children confined to their cells, some for more than 22 hours a day. The average length of segregation doubled from eight days in 2014 to 16 days in 2018, with 70% of episodes of segregation lasting more than one week.³¹ The Joint Human Rights Committee found that BAME children are particularly affected by the use of separation.³²

This means BAME children are more likely to go long periods without meaningful contact with their peers and access to proper education, held in cells with little stimuli and very few of their possessions, and limited access to facilities such as shower and exercise. The isolation can be traumatic, with adverse consequences for children's emotional and social development and triggering for mental health.

We recommend that time out of cell be increased in order to create a culture which is welfare-centred and encourages children's active participation in meaningful activities that support their development and desistance. By overusing time in cell as a mechanism for dealing with violence or leveraging it as an incentive or reward, those confined to the most basic regime – who may be most in need of interventions and support which could improve their outcomes – will be excluded from them.

The voluntary sector representatives we consulted with are concerned that the education provided in youth custody is too narrow and is not responsive to BAME children's needs. This is echoed by a thematic inspection which found that children were generally 'fitted into' education and training opportunities rather than provided with what was best for them.³³ There are concerns that this approach impacts outcomes on release, resulting in poor education and employment opportunities for BAME people in the community.

BAME-led organisations raised specific concerns about the narrow curriculum for BAME children. It was felt that BAME children should have better access to learning that empowers and represents them and provide them with BAME role models. Their education should support them to develop a positive self-identity and teach them – and their non-BAME peers – about black history and other civil rights struggles.

Evidence from the National Criminal Justice Arts Alliance (NCJAA) shows increased access to the arts offers engagement opportunities for people from diverse backgrounds and those who may have previously had negative experiences of mainstream classroom based education. Arts can support improved wellbeing, awaken an interest in learning and help people build new skills and positive identities.



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We recommend a more flexible approach to education which should include greater access to arts and creative opportunities and opportunities tailored to the needs and interests of the child, particularly ensuring that the curriculum enables the development of positive self-identity amongst BAME people.

We recommend that the youth justice system across custody and YOTs explore ways to record, six and 12 months after release, young people's educational and (where applicable to their age) employment outcomes. This should also include working with the NPS for those children who transition to the adult justice system during their sentence. The data should be broken down by ethnicity and gender.

b. Is there good collaboration between the secure estate, Youth Offending Teams, and Local Authorities, Social Services and other relevant organisations?

Voluntary organisations working in the secure estate often report feeling undervalued and that the scope for them to act as key strategic partners is underestimated. Clinks' Good Prison project³⁴ shows the value of co-ordinated voluntary sector activity within custodial institutions. It creates a more normalised, community-facing culture in the institution and supports rehabilitation by bringing outside organisations in, and ensuring services are timely, joined-up and appropriately sequenced. This approach can particularly support with identifying and meeting the needs of those in custody with protected characteristics.

The local expertise and community connections of small BAME-led voluntary sector organisations can provide a route for young people to re-connect with, and develop a stake in, their local communities. Being non-statutory, led by BAME people and embedded in communities, they are often better placed to engage with and build more positive, trusting relationships with BAME children and have greater understanding of the needs and challenges faced by BAME children on release.

However the BAME-led organisations we consulted with felt that youth justice agencies do not recognise their profession and expertise. They reported a lack of communication and information sharing with them and felt that youth justice staff often treated them and their organisations with suspicion and disrespect due to their ethnicity. As a result they find it difficult to access the secure estate in the first instance, or to deliver particular programmes.

The organisations we consulted with were small, specialist and often grass-roots community organisations. They spoke about the significant power imbalance between themselves and the youth justice system. They also discussed being squeezed out by larger organisations and companies – who can offer more competitive prices but have less knowledge and skill of working with young BAME people and less intensive support – or having their core mission diluted by contractual requirements to perform statutory duties within tightly defined parameters. It is particularly important now that BAME children outnumber white children in custody, that the provision of support reflects this and that there is more support made available that is relevant and appropriate for BAME children. Engaging with more BAME-led organisations and enabling them to deliver services in institutions will improve the overall diversity of adults who work and deliver in the youth estate and engage with the children.



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We recommend that youth justice agencies reinvest in partnership working with the BAME-led, specialist voluntary sector in order to provide effective, joined up responses to BAME children. To enable participation of specialist BAME-led organisations in youth justice, appropriate procurement processes that include grant funding are essential.

Youth justice institutions should adopt a voluntary sector co-ordinator similar to that described in the Good Prison project, to streamline interventions.

- c. Is there effective release planning to ensure that children and young people have access to accommodation, training and education upon release and what more can be done to ensure they do not reoffend?**
- d. What mechanisms exist to transition young people from the youth to the young adult/adult estate? What challenges does this raise and is more support required?**

Reoffending rates of young BAME people vary. Where it is disproportionately high for some cohorts, this is impacted by a range of factors including a lack of access to BAME-led specialist services and lack of diverse workforce that understands, supports and is able to meet the needs of young BAME people under supervision in the community. In addition to the barriers created by having a conviction, racial discrimination means BAME people face additional structural and institutional barriers that impact their access to education and employment opportunities, housing, and healthcare. BAME people also continue to experience after release racialised targeting, stereotyping and disproportionate policing tactics. All of these factors impact successful resettlement and can contribute to reoffending.

Poor planning, lack of prior contact with Youth Offender Teams, and the lack of engagement of youth justice estate with outside organisations or agencies³⁵ prevents positive relationships from being built and creates instability – which is counterproductive to desistance. Our consultation echoed this, with representatives feeling that release planning did not start early enough or sufficiently prepare young BAME people for release and that there was a lack of communication with the voluntary sector.

We recommend community-based opportunities – including mental health and emotional support – be identified and planned for at the earliest opportunity to provide a seamless transition from the secure estate on release. For continuity of care, a single, consistent worker should be attached to the young person throughout their sentence and a consistent point of contact through their licence period that they have engaged with prior to release.

Transition to adulthood

Maturation to adulthood is a neurological process that continues well into people's mid-twenties, and many young people leaving the youth justice system or transitioning environments continue to present with profound needs for support. It is important that young adults – especially those moving to the adult estate – have access to support that is appropriate to their emotional and behavioural maturity. This need is even starker for young women transitioning to the adult estate, as girls are no longer held in YOIs.



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Young adult men are increasingly serving longer prison sentences, with a growing proportion being sentenced as children and serving the initial part of their sentence in the youth estate, but not due to be released until well into adulthood. There is a lack of support available for them. A transfer process and regime should be developed that is suitable for this group to help them transition to the adult estate with the appropriate mental health support to cope and engage with their sentence. Having spent the entirety of their early adulthood in custodial institutions, they will have distinct resettlement needs and need more support to prepare for transitioning to the community.

MoJ is currently undertaking a rapid internal review of sentencing. It is exploring the possibility of changing legislation so that people who have committed serious violent and sexual offences spend longer in prison and making changes to the rules and procedures for their release. The review is considering this for both the youth and adult justice system. Increasing sentence lengths for children would likely lead to more children transitioning from the youth to adult estate at exactly the point in their development and maturity that, research highlighted by the Transition to Adulthood (T2A) Alliance has shown, they are more likely to move away from offending behaviour. If the outcome of the review results in increasing sentence lengths for younger people, then it will become more imperative that the CJS recognise this group's distinct needs and develop clear standard, transfer process and regime appropriate to their needs. There is also significant reason to be concerned that the proposals would exacerbate the already alarming disproportionately of BAME children in the youth estate, particularly for black boys.³⁶

Clinks and BTEG are members of the T2A Alliance and recommend referring to its guidelines for how to implement a model that meets the distinct needs of this group.

We recommend that transition to adulthood is explicitly addressed by developing a clear youth justice standard on the management of transitions from the youth to adult estates and ensuring that the strengthened inspection regime for youth justice services monitors and reports on its effective application, with particular attention paid to outcomes for BAME young adults and care leavers.

End notes

1. Clinks and BTEG (2014). *The Young review*. Available at: www.clinks.org/publication/young-review
2. Throughout this submission we use the term BAME to be consistent with the terminology typically used in criminal justice policy. However it is important to note that organisations attending our consultation raised concern that that communities identified by this term do not identify with it as a description. Nor does it sufficiently reflect the diversity of those who would fall under this umbrella label and as such can mask unique experiences. This impacts how we understand and are able to analyse the diverse and specific experiences of those in contact with the CJS and can lead to the silencing of different communities and their stories. It should also be noted that we understand the term in its widest sense and include Muslim communities and Gypsy Roma, Traveller people, both groups who experience significantly poor outcomes in the CJS, in our use of the term BAME.
3. Ministry of Justice and Her Majesty's Prison and Probation Service (2019) *Incentives Policy Framework*. Available at: www.gov.uk/government/publications/incentives-policy-framework (accessed 8 August 2019).
4. HM Prison and Probation Service (2019). *Youth custody report: May 2019*, Table 6. Available at: www.gov.uk/government/statistics/youth-custody-data (accessed 8 August 2019).
5. HM Inspectorate of Prisons (2019). *Children in Custody 2017–18*. Available at: www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf (accessed 8 August 2019).
6. *ibid*
7. HM Prison and Probation Service (2019). *Youth custody report: May 2019*, Table 6. Available at: www.gov.uk/government/statistics/youth-custody-data (accessed 8 August 2019).
8. Children in care in England are six times more likely to be cautioned or convicted of an offence than their peers. It has been estimated that approximately 400 looked after children are in custody at any one time – slightly less than half the current total number of children in custody (*Care not Custody*, 2018, Prison Reform Trust: www.prisonreformtrust.org.uk/Portals/0/Documents/Care%20not%20Custody%20briefing%202018.pdf).
9. In 2018/19, 30% of children that entered youth custody were assessed as having special educational needs or disabilities. This does not account for those whose need or disability will have been missed and gone undiagnosed. See: www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-07-02/272276/
10. It is estimated that around a quarter of children in custody have been permanently excluded from school, and 90% have a history of persistent absence and exclusions.
11. Please refer to the response submitted by the Standing Committee for Youth Justice.
12. Graham, B., White, C., Edwards, A., Potter, S. and Street, C. (2019). *School exclusion: a literature review on the continued disproportionate exclusion of certain children*. London: Department for Education.
13. HM Inspectorate of Prisons (2018). *Incentivising and promoting good behaviour: a thematic review*. Available at: www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2018/03/Incentivising-and-promoting-good-behaviour-Web-2018.pdf (accessed 14 August 2019).
14. Goodfellow, P. (2019). *Outnumbered, locked up and over-looked? The use of penal custody for girls in England and Wales*, London: The Griffins Society.
15. *ibid*
16. Ministry of Justice (2018). *Tackling Racial Disparity in the Criminal Justice System: 2018 Update*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/747335/tackling-racial-disparity-criminal-justice-system-2018-update-web.pdf (accessed 8 August 2019).
17. *ibid*
18. HM Inspectorate of Prisons (2019) *Children in Custody 2017-18*. Available at: www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf (accessed 8 August 2019).
19. Including GRT children who in custody are recorded as white, which means they can get missed from equalities work.
20. Clinks (2016). *Clinks' submission to the review of the youth justice system*. Available at: www.clinks.org/sites/default/files/2018-10/clinks_taylorreview_final.pdf (accessed 8 August 2019).
21. Gibbs, P. and Ratcliffe, F. (2018). *Path of little resistance: is pre-trial detention of children really a last resort?* London: Transform Justice.
22. HM Inspectorate of Prisons (2018). *Incentivising and promoting good behaviour: a thematic review*. Available at: www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2018/03/Incentivising-and-promoting-good-behaviour-Web-2018.pdf (accessed 14 August 2019).
23. Youth Justice Board and Ministry of Justice (2019). *Youth Justice Statistics 2017/18*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774866/youth_justice_statistics_bulletin_2017_2018.pdf (accessed 14 August 2019).
24. HM Inspectorate of Prisons (2019). *Children in Custody 2017-18*. Available at: www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf (accessed 8 August 2019).
25. HM Chief Inspector of Prisons for England and Wales (2019) *Annual Report 2018-19*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814689/hmip-annual-report-2018-19.pdf (accessed 14 August 2019).



Clinks supports, represents and advocates for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.

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Clinks response to the Justice Committee's inquiry into children and young people in custody

January 2020

26. Protected characteristics are those protected from discrimination under the Equalities Act (2010). These include: age; disability; gender reassignment; race; religion or belief; sex; sexual orientation; marriage and civil partnership; and pregnancy and maternity.
27. Joint Committee on Human Rights (2019). *Youth detention: solitary confinement and restraint*. Available at: <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/994/994.pdf> (accessed 8 August 2019).
28. Youth Justice Board (2019). *Youth Justice Statistics 2017/18 England and Wales*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774866/youth_justice_statistics_bulletin_2017_2018.pdf (accessed 8 August 2019).
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30. HM Inspectorate of Prisons (2019). *Children in Custody 2017-18*. Available at: www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2019/01/6.5164_HMI_Children-in-Custody-2017-18_A4_v10_web.pdf (accessed 8 August 2019).
31. The Children Commissioner (2018). A report on the use of segregation in youth custody in England. Available at: www.childrenscommissioner.gov.uk/wp-content/uploads/2018/10/Segregation-report-final.pdf (accessed 15 August 2019).
32. Joint Committee on Human Rights (2019). *Youth detention: solitary confinement and restraint*. Available at: <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/994/994.pdf> (accessed 8 August 2019).
33. HM Inspectorate of Prisons and HM Inspectorate of Probation (2019). *Youth resettlement work. Interim report into work in custody, October 2018 - April 2019*. Available at: www.justiceinspectorates.gov.uk/cjji/inspections/youth-resettlement-work-interim-report-into-work-in-custody-october-2018-april-2019/ (accessed 20 September 2019).
34. Clinks (2018). *The good prison*. Available at: www.clinks.org/publication/good-prison (accessed 15 August 2019).
35. HM Inspectorate of Prisons and HM Inspectorate of Probation (2019). *Youth resettlement work. Interim report into work in custody, October 2018 - April 2019*. Available at: www.justiceinspectorates.gov.uk/cjji/inspections/youth-resettlement-work-interim-report-into-work-in-custody-october-2018-april-2019/ (accessed 15 August 2019).
36. For more information about concerns around the sentencing review, please see: www.clinks.org/community/blog-posts/swift-changes-direction-sentencing-policy