

**FOR EVERY
CHILD**

unicef 
UNITED KINGDOM



A RIGHTS-BASED ANALYSIS OF YOUTH JUSTICE IN THE UNITED KINGDOM

SUMMARY AND INFOGRAPHICS

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FOREWORD

This most welcome report comes at the beginning of a periodic review (2021–22) by the UN Committee on the Rights of the Child of the UK State Party's implementation of the Convention on the Rights of the Child. In past periodic reviews, it has already been seen that devolution within the UK has enabled differences to emerge in approaches to and extent of implementation. There are benefits in this, but it brings complexity in terms of accountability. Unicef UK's support for non-governmental reporting within the UK has been pivotal in navigating this complexity, and this report makes a further, important contribution.

Wales and Scotland have, unlike Northern Ireland, enjoyed uninterrupted devolved government for over two decades, and in both countries, explicit promotion of the Convention is a consistent theme in public policy and law reform. This is evident in relation to strategies on children's social services, education, care, child poverty and structures for civic participation as well the area with which this report is concerned: youth justice.

Efforts to protect, respect and fulfil the human rights of children must recognise the interdependence and connectedness of these several fields. Links between socio-economic deprivation, exclusion from education, family instability and offending are very well established. Applying to this fact the lens of the Convention's requirements, we can see that where children's rights to protection, care, inclusive education, adequate accommodation, social security and voice are delivered, there will be fewer children involved in the youth justice system. Within the youth justice system, they will be treated as 'children first, offenders second'. This report delivers a much-needed, in-depth and up to date account of how the systems of youth justice within the UK are performing against that standard.

The report evidences many encouraging developments and will be a valuable resource for learning from the different progressive experiences and approaches. There remain, however, some glaring contradictions, most notably in the persistence of low minimum ages of criminal responsibility which are out of step with the way in which children are treated in civil and administrative proceedings in the UK, with minimum ages of criminal responsibility in comparable European countries and of course, with the requirements of the Convention.

The report will undoubtedly assist in efforts to hold the governments of the UK to account for their implementation of the Convention. It is to be hoped that it will be embraced by duty-bearers at all levels as a solid foundation to inform future programmes of work.

Professor Jane Williams

Observatory on Human Rights of Children
Hillary Rodham Clinton School of Law
Swansea University, October 22, 2020

INTRODUCTION

Youth justice processes and practices should never operate to undermine children's rights, but instead, should always seek to empower and uphold them. It is Unicef UK's belief that a youth justice system that consistently works in children's best interests and actively promotes their rights, will lead to better, fairer and more beneficial outcomes for children and wider society.

This Summary and infographic document is intended to complement the full version of the [report](#). It provides a 'snapshot' of key youth justice statistics, along with the key findings and recommendations to emerge from the analysis undertaken.

The full version of the report represents Unicef UK's first examination of youth justice issues to date and contained within it are a series of recommendations (45 in total) outlining where Unicef UK believes positive and progressive change is required in order to ensure the rights of children who are in contact with the law are protected and upheld.



UK YOUTH JUSTICE INFOGRAPHICS

The nations of the United Kingdom have the **LOWEST** ages of criminal responsibility in Europe.¹

COUNTRY	MACR	COUNTRY	MACR
Lithuania	16	Italy	14
Luxembourg	16	Latvia	14
Czechia	15	Malta	14
Denmark	15	Malta	14
Finland	15	Romania	14
Poland	15	Slovakia	14
Sweden	15	Slovenia	14
Austria	14	Spain	14
Bulgaria	14	France	13
Croatia	14	Belgium	12
Rep of Cyprus	14	Ireland	12
Estonia	14	Netherlands	12
Germany	14	Scotland	12
Greece	14	England & Wales	10
Hungary	14	Northern Ireland	10

Minimum age of criminal responsibility (MACR) across Europe.

“There was not a single establishment that we inspected in England and Wales in which it was safe to hold children and young people.”

HM Chief Inspector of Prisons, 2017²

In 2020, concerns continue to persist around:

- **Use of solitary confinement**
- **High levels of self-harm**
- **High numbers of Restrictive Physical Interventions (RPI)**
- **High levels of violence**

Residents from
outside Scotland

33%

67%

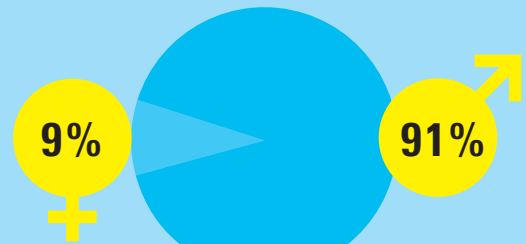
Residents from
within Scotland

One in three children
in **secure care** in
Scotland is from outside
the country.³

In 2018–19,

**males made up 91%
and females 9%**

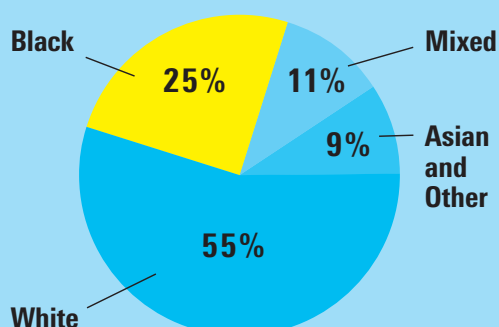
of young people held in
Northern Ireland's Juvenile
Justice Centre.⁴



More than 70% of children being held
in Scottish Young Offender Institutions are
untried or awaiting sentence.⁵



In England and Wales, black children were
over **4 times** more likely to be arrested
than white children in 2019.^{6,7}



**A quarter of children
in custody are black.**

This proportion is
five times higher than
the general population.⁸

SCOTLAND



The analysis undertaken within the Scotland chapter of the report identifies a number of **progressive features** of Scottish youth justice practice (or elements that directly affect youth justice practice). These include:

- Introduction of the UNCRC (Scotland) (Incorporation) Bill.
- Emphasis on prevention and diversion via Early and Effective Intervention and the Children's Hearings System.
- Launch of the Scottish Government Consultation on raising the age at which a young person can be referred to a children's hearing from 16 to 18.
- Introduction of the 'Secure Care Pathway and Standards Scotland'.
- Progressive recommendations – particularly as they relate to youth justice – outlined in the Independent Care Review.
- Efforts to reduce school exclusions.

However, the Scotland chapter of the report similarly identifies a number of areas of concern where the rights of children in contact with the law are currently being undermined. The **key areas of concern** are:

- Minimum age of criminal responsibility set at 12 years old.
- Lack of routine direct child participation within the Early and Effective Intervention approach.
- Appearance of children under age 18 in adult courts in Scotland (particularly in respect of 16- and 17-year-olds).
- Identification in the media of children under 18 years of age who have committed criminal offences.
- Potential for tasers to be used on children in Scotland.
- Welfare of children who are on remand in young offender institutions.
- Use of solitary confinement in young offender institutions.
- Impacts of COVID-19 on children held in youth detention
- Practice of placing children from outside Scotland in Scottish secure care accommodation – away from their home locations, and with an associated impact on secure care provision for Scottish children.
- Lack of robust, publicly available statistical data relating to children's interaction with specific stages of the youth justice system.

SCOTLAND: KEY RECOMMENDATIONS

The following recommendations are contained with the Scotland chapter of the report:

RECOMMENDATION 1

Unicef UK recognises that progress has been made in respect of the minimum age of criminal responsibility (MACR) in Scotland. However, Scotland's current MACR does not meet the standard of at least 14 years of age outlined in General Comment No.24.

Unicef UK recommends that the Scottish Government amend MACR to at least 14 years of age in line with General Comment No.24 at the earliest opportunity. This would strongly correspond with the intentions of the UNCRC (Scotland) (Incorporation) Bill to prioritise the rights of children in domestic legislature.

RECOMMENDATION 2

Unicef UK recognises that Early and Effective Intervention (EEI) is an important diversionary mechanism for filtering children away from the Children's Hearings System (and formal measures). However, we note that there is a lack of 'direct' child participation within the process.

Unicef UK therefore recommends that the Scottish Government revise future EEI guidance to 'directly' include contributions from children (UNCRC 1989 Article 12) within the workings of the EEI process.

RECOMMENDATION 3

Unicef UK is concerned that the Children's Hearings System approach is currently being undermined by the appearance of children under 18 years of age within the adult justice system and courts in Scotland.

Unicef UK recommends that all children under 18 years of age should be treated as children and should be situated in a child justice system which is specifically designed to cater for their needs.

RECOMMENDATION 4

Unicef UK recommends that the following actions in relation to the use of tasers and police custody be carried out:

1. The Scottish Government should prohibit the use of tasers on children in Scotland who are under 18 years of age.
2. Police Scotland should make statistical data (disaggregated by age, gender and ethnicity) publicly and consistently available relating to the number of children subjected to use of force, use of restraint and strip-searching when in police custody.

RECOMMENDATION 5

Unicef UK recommends that the following action be undertaken in relation to children's anonymity:

The Scottish Government should commit to ensuring the anonymity of all children under 18 years of age who come into

contact with the law and appear at Scottish courts - regardless of the offence they have committed. This anonymity should not cease at 18 years of age but instead should last a lifetime.

RECOMMENDATION 6

Unicef UK believes that no child under 18 years of age should be tried in adult courts in Scotland, regardless of the offence they have committed.

Unicef UK recommends that, wherever possible, children are engaged within the Children's Hearings System (CHS). Where children have committed the most serious offences and may not be suitable for the CHS, appropriate alternatives should be explored and developed, which are specifically designed to cater for and recognise children's particular needs.

RECOMMENDATION 7

Unicef UK recommends that the following actions in relation to young offender institutions be carried out:

1. The Scottish Government should explore appropriate alternatives to young offender institutions for children under 18 years of age.
2. The Scottish Government should prohibit the use of solitary confinement in youth detention settings.

RECOMMENDATION 8

Unicef UK recommends that the Scottish Government and Scottish Prison Service record and make publicly and consistently available statistical data relating to:

1. The prevalence and type of behaviour management incidents occurring in

young offender institutions (and secure care) disaggregated by age, gender and ethnicity.

2. The number of care-experienced, BAME and school-excluded children situated in young offender institutions (and secure care) in Scotland.

RECOMMENDATION 9

Unicef UK recommends that the following actions be carried out in relation to secure care:

1. The Scottish Government should reconsider the practice of placing 'children from outside of Scotland' in Scottish secure care accommodation. Unicef UK is particularly concerned that because of this practice children are being placed in secure care settings away from their home location.
2. The Scottish Government should explore the benefits of 'centrally funding' secure care provision in order to address supply and demand issues and reduce the incentive of Scottish secure care providers securing finance from external local authorities. This move would free up additional capacity within the secure care estate and would reduce the threat of secure care units having to close due to a lack of adequate financial resource.
3. The Scottish Government should work closely together with key stakeholders to ensure the *Secure Care Pathway and Standards Scotland* are successfully implemented as intended (particularly where these relate to the promotion of children's rights).

RECOMMENDATION 10

Unicef UK welcomes the progressive recommendations – particularly as they relate to youth justice - outlined in the Independent Care Review.

Unicef UK encourages all stakeholders to work closely together to help deliver 'The Plan' as outlined in the Independent Care Review.

RECOMMENDATION 11

Unicef UK welcomes the Scottish Government's commitment to reducing the use of school exclusions and the progress that has been made in this area.

Unicef UK recommends that the following actions be carried out in relation to school exclusions:

1. The Scottish Government should outline what steps it is currently taking to address the link between school exclusions and children possessing an additional support need or living in an area with relatively more deprivation.
2. The Scottish Government should outline what steps it is currently taking to explore the link between children being outside of mainstream education and enhanced vulnerability to criminal exploitation.

RECOMMENDATION 12

Unicef UK welcomes the fact that the Scottish Parliament has passed Amendment 3 which prevents children over 16-years-old (e.g. aged 16/17 years old) being treated as adults and issued with a Fixed Penalty Notice.

Unicef UK urges the Scottish Government and Police Scotland to confirm that any child who received a Fixed Penalty Notice following the introduction of the Regulations and up until the passing of the Amendment will have it removed from their record.

(note: Police Scotland can keep Fixed Penalty Notice information for 2 years).

RECOMMENDATION 13

Unicef UK is concerned that children in youth detention in Scotland are extremely vulnerable to the short and long-term impacts of Covid-19.

Unicef UK recommends that the Scottish Government take immediate action in line with the steps identified in *The Alliance for Child Protection in Humanitarian Action* and *UNICEF Technical Note on Children Deprived of their Liberty*.

WALES



The analysis undertaken within the Wales Chapter of the report identifies a number of **progressive features** of Welsh youth justice practice (or elements that directly impact on youth justice practice). These include:

- Creation of key youth policy documents – such as the All Wales Youth Offending Strategy (2004), Children and Young People First (2014) and the Youth Justice Blueprint for Wales (2019) – that promote a ‘children first’ philosophy.
- Creation of innovative, rights-based youth diversion schemes such as the Bureau Model.
- Reductions in child arrest figures achieved by Welsh police forces.
- Development of approaches designed to engage with children who possess complex needs and who have experienced trauma.

However, the Wales chapter of the report also identifies a number of areas of concern where the rights of children in contact with the law are currently being undermined. The **key areas of concern** are:

- Minimum age of criminal responsibility set at 10 years old.
- Potential for tasers to be used on children in Wales.
- Lack of data, knowledge and understanding around the impact of youth diversion on specific groups of children.
- Identification in the media of children under 18 years of age who have committed criminal offences
- Practice of regularly placing Welsh children in youth detention facilities away from their home locations (and, correspondingly, English children routinely being placed in Welsh youth detention settings)
- Rise in numbers of permanent school exclusions
- Lack of robust, publicly available, Wales-only (rather than England and Wales) statistical data relating to children’s interaction with specific stages of the youth justice system

WALES: KEY RECOMMENDATIONS

The following recommendations are contained within the Wales chapter of the report:

RECOMMENDATION 14

Unicef UK recommends the following actions be undertaken in relation to the minimum age of criminal responsibility (MACR):

1. The Welsh Government should take action to influence the UK Government at every opportunity to progressively amend MACR to at least 14 years of age in line with General Comment No. 24.
2. The Welsh Government should ask the UK Government to commit to ensuring that children's views (UNCRC 1989 Article 12) in Wales are recognised in any future legislative processes aimed at raising MACR.

RECOMMENDATION 15

Unicef UK welcomes the growing emphasis that has been placed on youth diversion policy and practice in Wales. However, Unicef UK is concerned that the full impact of diversion is not yet fully understood because data-recording practices are inconsistent which makes robust and demographically detailed analysis challenging.

Unicef UK recommends that the Welsh Government and Youth Justice Board Cymru invest in research to better understand the true impact of diversion and particularly how it relates to girls, BAME, school-excluded and care-experienced children.

RECOMMENDATION 16

Unicef UK welcomes the fact that Howard League for Penal Reform data suggests that every police force in Wales over the 2010-2018 period has achieved sizeable (percentage) reductions in child arrests. Unicef UK urges the Home Office and Welsh police forces to maintain their efforts in reducing numbers of child arrests, with the ambition of keeping children out of the formal youth justice system.

Unicef UK recommends the following actions be carried out in relation to the use of tasers:

1. The UK Government should prohibit the use of tasers on children in Wales who are under 18 years of age.
2. The Home Office should review the impact on children's rights presented by increasing numbers of police officers in Wales being equipped with a taser.

RECOMMENDATION 17

Unicef UK recommends the following actions be undertaken in respect of enhanced case management (ECM):

1. The Welsh Government and Youth Justice Board Cymru should carry out further evaluations of the ECM approach.
2. The Welsh Government and Youth Justice Board Cymru should specifically evaluate the extent to which the ECM approach recognises children's views and promotes their participation within its workings (UNCRC 1989 Article 12).

RECOMMENDATION 18

Unicef UK recommends the following action be undertaken in relation to children's anonymity:

The Welsh Government should urge the UK Government to commit to ensuring the anonymity of all children under 18 years old who come into contact with the law and appear at court in Wales – regardless of the offence they have committed. This anonymity should not cease at 18 years of age but instead should last a lifetime.

RECOMMENDATION 19

Unicef UK recommends the following actions be undertaken in relation to young offender institutions (YOI) and secure children's homes (SCH):

1. The UK Government should prohibit the use of solitary confinement in youth detention settings in Wales.
2. End the practice of Welsh children regularly being placed in youth detention facilities far away from their home locations (and correspondingly English children being placed in Welsh youth detention) and consider how Welsh children who have committed offences can be better provided for within Wales – potentially through the creation of additional well-staffed, rights-focused SCH.
3. An assessment and analysis exercise should be carried out to determine whether there is sufficient SCH provision currently in place across Wales.

RECOMMENDATION 20

Unicef UK is concerned by the increasing numbers of children being permanently excluded from schools in Wales, and particularly, the impact this is having on some of Wales's most vulnerable children.

Unicef UK recommends the following actions be carried out in relation to school-exclusions:

1. The Welsh Government should urgently review the reasons behind these increases, as well as identify which children are being the most impacted by them and why this is the case.
2. The Welsh Government should outline what steps it is currently taking to explore the relationship between children being outside of mainstream education and enhanced vulnerability to criminal exploitation.

RECOMMENDATION 21

Unicef UK is concerned that children in youth detention in Wales are extremely vulnerable to the short and long-term impacts of Covid-19.

Unicef UK recommends that immediate action be taken in line with the steps identified in *The Alliance for Child Protection in Humanitarian Action* and *UNICEF Technical Note on Children Deprived of their Liberty*.

ENGLAND



The analysis undertaken within the England Chapter of the report identifies a number of **progressive features** of English youth justice practice (or elements that directly impact on youth justice practice). These include:

- Renewed prominence being afforded to the role of youth diversion (and impact on numbers of first-time entrants).
- Reductions in child arrest figures achieved by English police forces.
- Creation of 'Outcome 21' to reduce the criminalisation of children for sexting offences.
- Development of 'The National Protocol on Reducing Unnecessary Criminalisation of Looked-after Children and Care Leavers'.
- New legislation announced aimed at amending the Police Act 1997 to remove the automatic disclosure of youth cautions, reprimands and warnings.

However, the England chapter of the report also identifies a number of areas of concern where the rights of children in contact with the law are currently being undermined. The **key areas of concern** are:

- Minimum age of criminal responsibility set at 10 years old.
- Lack of data, knowledge and understanding around the impact of youth diversion for specific groups of children.
- Use of tasers and spit-hoods on children under 18 years of age and their disproportionate use on Black, Asian and Minority Ethnic (BAME) children .
- Overnight detention of children in police custody and the lack of available suitable local authority accommodation or provision.
- Identification in the media of children under 18 years of age who have committed criminal offences.
- Some children still feel unable to participate effectively in Youth Court proceedings, and legal professionals at times still lack specific youth justice and children's rights expertise when working in this setting.
- Conditions experienced by children in young offender institutions – for example, the high numbers of children on remand, high levels of violence and use of segregation and solitary confinement.¹
- Impacts of COVID-19 on children held in youth detention.
- Over-representation of BAME children in the youth justice system.
- Current rate of permanent school exclusions and use of "off-rolling", which can leave children vulnerable to criminal exploitation.

ENGLAND: KEY RECOMMENDATIONS

The following recommendations are contained within the England chapter of the report:

RECOMMENDATION 22

Unicef UK recommends the following actions be carried out in relation to the minimum age of criminal responsibility (MACR):

1. The UK Government should amend its MACR to at least 14 years of age in line with General Comment No.24.
2. The UK Government should commit to ensuring children's views (UNCRC 1989 Article 12) in England are recognised in any future legislative processes aimed at raising MACR.

RECOMMENDATION 24

Unicef UK, welcomes the fact that Howard League for Penal Reform data suggests that every police force in England over the 2010-2018 period has achieved reductions in numbers of child arrests.

However, in light of 2018 upturns in child arrest figures amongst a number of English police forces, Unicef UK urges the Home Office and English police forces to continue to maintain efforts to reduce numbers of child arrests, with the ambition of keeping children out of the formal youth justice system.

RECOMMENDATION 23

Unicef UK, welcomes the growing emphasis that has been placed on youth diversion policy and practice in England. However, Unicef UK recommends that:

1. The Ministry of Justice and Youth Justice Board invest in research to better understand the true impact of diversion and how it relates to girls, BAME, school-excluded and care-experienced children in England.
2. Solicitors representing children in police stations (e.g. the pre-court arena) should undertake specialist youth justice and children's rights focused training as part of their role.

RECOMMENDATION 25

Unicef UK is concerned that tasers are increasingly being used by English police forces on children (and in certain police forces disproportionately on BAME children). Unicef UK recommends that the following actions be undertaken:

1. The UK Government should prohibit the use of tasers on children in England who are under 18 years of age.
2. The Home Office should review the impact on children's rights presented by increasing numbers of police officers in England being equipped with a taser.
3. The Home Office should assess the reasons for the disproportionate use of tasers on BAME children in England.

RECOMMENDATION 26

Unicef UK is concerned that spit-hoods are increasingly being used by English police forces on children and recommends that:

1. The UK Government prohibit the use of spit-hoods on children in England who are under the age of 18 years old.
2. The Home Office assess the reasons for the disproportionate use of spit-hoods on BAME children in England.

RECOMMENDATION 29

Unicef UK recommends that the following action be undertaken in relation to children's anonymity:

The UK Government commit to ensuring the anonymity of all children under 18 years of age who come into contact with the law and appear at English courts - regardless of the offence they have committed. This anonymity should not cease at 18 years of age but instead should last a lifetime.

RECOMMENDATION 27

Unicef UK welcomes efforts by police forces in England to reduce the unnecessary criminalisation of children via the use of Outcome 21.

However, Unicef UK believes that there is (a) a need for the Home Office to more comprehensively examine the reasons behind apparent discrepancies between police forces in the administering of Outcome 21 and (b) a need for the Home Office to examine the extent to which Outcome 21 information is being disclosed by police forces in respect of Enhanced DBS Checks.

RECOMMENDATION 30

Unicef UK welcomes the fact that reduced numbers of children are appearing at Youth Courts. However, we are concerned that existing research suggests that certain children feel they are not able to effectively participate in proceedings and legal professionals sometimes lack specific youth justice and children's rights expertise when working in this setting:

Unicef UK recommends that the following actions be undertaken in relation to the Youth Court:

1. Legal professionals in the Youth Court undertake specialist youth justice focused training when working in this setting.
2. Legal professionals in the Youth Court undertake children's rights training when working in this setting.

RECOMMENDATION 28

Unicef UK is concerned that children in England who have not been granted bail are still not routinely being placed in appropriate local authority accommodation as stipulated in the Police and Criminal Evidence Act (PACE) 1984.

Unicef UK recommends that the UK Government urgently review the progress that has been made on this issue in the period since the publication of the 2017 Home Office Concordat.

RECOMMENDATION 31

Unicef UK is particularly concerned at conditions within English young offender institutions (YOI) and secure training centres (STC), and specifically, the frequent

use of restraints and use of force; the employment of isolation, segregation and solitary confinement; and the routinely high levels of violence to be found within these establishments. Based on longstanding evidence of repeated failings within these establishments, Unicef UK does not believe that YOI and STC in England constitute appropriate settings for children.

Unicef UK recommends that the following actions be undertaken in relation to youth detention:

1. The UK Government should prohibit the use of solitary confinement in youth detention settings.
2. The UK Government, HM Prison and Probation Service and the Youth Justice Board should outline what steps are currently being taken to address the disproportionate representation of BAME children in youth custody.

RECOMMENDATION 32

Unicef UK is extremely concerned at the continued overrepresentation of BAME children within the youth justice system in England. Unicef UK recommends that the following actions be undertaken in relation to this area:

The UK Government should fully implement the recommendations made in The Lammy Review.

The UK Government and Youth Justice Board should develop and fund further initiatives such as Levelling the Playing Field which are aimed at preventing BAME children from entering into the formal youth justice system in the first instance/ and addressing their needs if within the formal youth justice system.

The UK Government and Youth Justice Board should commission further research into BAME children's interaction with the youth justice system to better understand

the reasons underpinning how specific youth justice processes and practices are disproportionately impacting upon this group of children. BAME children's views, their experiences and their understandings should be a central feature of this research (UNCRC 1989 Article 12).

The UK Government and Youth Justice Board should create opportunities to actively listen (UNCRC 1989 Article 12) to BAME children and young people's views on this issue.

RECOMMENDATION 33

Unicef UK is concerned that since 2013/14 the rate of permanent exclusions in schools in England has risen to, and then remained at 0.10 (whilst fixed period rates continue to increase). Unicef UK is particularly concerned at the disproportionate impact that school exclusions are having on children who are from certain ethnic groups, have Special Education Needs (SEN), are eligible for free school meals and who attend schools in the most deprived areas of the country. Unicef UK recommends the following actions are undertaken in respect of school exclusions:

1. The Department for Education should end the use of off-rolling practices.
2. The Department for Education should outline what measures are currently being taken to address the disproportionate impact that school exclusions are having on some of the most vulnerable children in society (e.g. children with SEN, who are eligible for free school meals and who attend schools in the most deprived areas of the country).
3. The Department for Education should outline what work is currently being done to explore the relationship between children being outside of mainstream education and enhanced vulnerability to criminal exploitation.

RECOMMENDATION 34

Unicef UK welcomes the fact that there is increasing recognition of the overrepresentation of care-experienced children within the youth justice system and that progress is being achieved in respect of addressing this issue.

To help increase knowledge of how care-experienced children interact with the youth justice system and work towards their reduced criminalisation, Unicef UK recommends that there needs to be:

1. Improved and more consistent data-recording practices in respect of care-experienced children who come into contact with the police (e.g. in relation to police call-out data).
2. Greater examination of the impact of criminalisation on specific groups of care-experienced children (e.g. BAME, school-excluded, girls and SLCN children) – this should be underpinned by the views and experiences of these groups of children (UNCRC 1989 Article 12).
3. Greater examination of the relationship between criminal exploitation and the criminalisation of care-experienced children (e.g. children seen as victims, rather than as perpetrators of crime).

RECOMMENDATION 35

Unicef UK welcomes newly proposed legislation aimed at removing the automatic disclosure of youth cautions, reprimands and warnings. However, Unicef UK recommends that the UK Government (and where applicable the Ministry of Justice) undertake the following actions moving forward:

1. Ensure that the proposed legislation is enacted as intended, without delay.
2. Review the legislation once implemented, to ensure it is functioning as intended.

3. Examine the extent to which other commonly used out-of-court or diversionary outcomes (e.g. the community resolution) are appearing on criminal record checks, so as to ensure that children who have been diverted are not unnecessarily being stigmatised as they move forward with their lives.
4. Review whether other areas of the child criminal records system also urgently require reform.

RECOMMENDATION 36

Unicef UK recommends the following actions be undertaken in relation to knife crime:

1. The UK Government should commit to treating knife crime as a societal/structural, rather than individualistic issue, when developing any new policy/guidance in this area.
2. The UK Government should fund holistic prevention programmes aimed at addressing knife crime.
3. The UK Government should actively develop opportunities to listen to children and young people's views (UNCRC 1989 Article 12) on this issue.

RECOMMENDATION 37

Unicef UK is concerned that children in youth detention in England are extremely vulnerable to the short and long-term impacts of Covid-19.

Unicef UK recommends that immediate action be taken in line with the steps identified in *The Alliance for Child Protection in Humanitarian Action* and *UNICEF Technical Note on Children Deprived of their Liberty*.

NORTHERN IRELAND



The analysis undertaken within the Northern Ireland chapter of the report identifies a number of **progressive features** of Northern Irish youth justice practice (or elements that directly impact on youth justice practice). These include:

- Progressive efforts to divert children via the use of:
- Youth Engagement Clinics (via Informed Warnings and Restorative Cautions) and
- Youth Conferencing (via diversionary and court ordered streams).
- Amending the AccessNI criminal records scheme in respect of non-court disposals pertaining to children under 18 years old.

However, the Northern Ireland chapter of the report also identifies a number of areas of concern where the rights of children in contact with the law are currently being undermined. The **key areas of concern** identified, consist of:

- Minimum age of criminal responsibility set at 10 years old.
- Potential use of tasers and attenuating energy projectiles on children under 18 years of age.
- Lack of uptake of legal representation when children are involved with Youth Engagement Clinics.
- High proportion of care-experienced children appearing at Youth Conferences.
- Routine use of the Police and Criminal Evidence (PACE, Northern Ireland) to admit children to the Juvenile Justice Centre (JJC), rather than using this facility only as a last resort.
- Consistently high number of children in the JJC who are subject to a care order.

NORTHERN IRELAND: KEY RECOMMENDATIONS

The following recommendations are contained within the Northern Ireland chapter of the report:

RECOMMENDATION 38

Unicef UK recommends the following actions be undertaken in respect of the minimum age of criminal responsibility (MACR):

The Northern Ireland Executive should amend its MACR to at least 14 years of age in line with General Comment No.24.

The Northern Ireland Executive should commit to ensuring children's views (UNCRC 1989 Article 12) in Northern Ireland are recognised in any future legislative processes aimed at raising MACR.

RECOMMENDATION 39

Unicef UK welcomes the growing emphasis placed on youth diversion in Northern Ireland via Youth Engagement (YE) Clinics. Unicef UK similarly welcomes the changes that have been made to the disclosure of criminal records for non-court disposals for children under 18 years old. However, Unicef UK believes that:

1. These changes should be reviewed in due course to ensure that they are working as intended and children are not being unnecessarily stigmatised.
2. The Department of Justice and Youth Justice Agency should undertake analysis of why the majority of children engaged with YE Clinics do not take up legal representation.

RECOMMENDATION 40

Unicef UK, acknowledges the growing emphasis that has been placed on restorative solutions to children's offending via Youth Conferencing.

However, Unicef UK is concerned at the high proportion of care-experienced children appearing at Youth Conferences (and subsequently at the Juvenile Justice Centre (JJC)).

Unicef UK recommends that the Youth Justice Agency undertakes research and analysis to better understand the reasons why high numbers of care-experienced children are engaged with Youth Conferences and take action to mitigate this.

RECOMMENDATION 41

Unicef UK recommends that the Northern Ireland Executive prohibit the use of AEP and tasers on children under 18 years old.

RECOMMENDATION 42

Unicef UK recommends the following actions are undertaken in relation to police custody in Northern Ireland:

1. PSNI should make statistical data (disaggregated by age, gender and ethnicity) publicly and consistently available which relate to the number of children subjected to use of force, restraint and strip-searches when in police custody.

2. The Northern Ireland Executive should review existing legislation to ensure that children post-charge are no longer being admitted to the Juvenile Justice Centre (JJC) due to a lack of suitable alternative accommodation.

RECOMMENDATION 43

Unicef UK is concerned at the consistently high number of children in Woodlands JJC who are subject to a Care Order. Unicef UK recommends that the Youth Justice Agency undertake research into what the possible reasons are behind this trend and what action needs to be taken to reverse the current levels.

Additionally, Unicef UK recommends that the Northern Ireland Executive prohibit the use of solitary confinement in youth detention settings.

RECOMMENDATION 44

Unicef UK is concerned that children in youth detention in Northern Ireland are extremely vulnerable to the short and long-term impacts of Covid-19.

Unicef UK recommends that immediate action be taken in line with the steps identified in *The Alliance for Child Protection in Humanitarian Action* and *UNICEF Technical Note on Children Deprived of their Liberty*.



RECOMMENDATION 45

Unicef UK is concerned that Jersey's minimum age of criminal responsibility (MACR) of 10 years old does not currently meet the threshold of at least 14 years of age as outlined in General Comment No.24. Unicef UK recommends the following actions are undertaken in relation to MACR:

1. The Government of Jersey should, at the earliest opportunity, progressively amend its MACR to at least 14 years of age in line with General Comment No.24.
2. The Government of Jersey should commit to ensuring that children's views in Jersey (UNCRC 1989 Article 12) are recognised in any future legislative processes aimed at raising MACR.



ENDNOTES

- 1 Table adapted from data appearing in the document: Scottish Parliament (2018). *Age of Criminal Responsibility (Scotland) Bill Policy Memorandum (2018)*. Edinburgh: Scottish Parliament.
- 2 HM Chief Inspector of Prisons (2017). Annual Report 2016-2017. London: HMCIP.
- 3 Scottish Government (2020). *Children's Social Work Statistics 2018-19*. Edinburgh: Scottish Government.
- 4 Brown, T. (2019). Northern Ireland Youth Justice Agency Annual Workload Statistics 2018/19. YJA Statistical Bulletin 2019: www.justice-ni.gov.uk/sites/default/files/publications/justice/YJA%20Workload%20Statistics%20bulletin%202018-19.pdf.
- 5 Children and Young People's Centre for Justice (2020) October Newsletter. Glasgow: CYCJ.
- 6 Year Ending March.
- 7 Ministry of Justice and Youth Justice Board (2020), *Youth Justice Statistics: 2018 to 2019*, London: Ministry of Justice and Youth Justice Board.
- 8 www.gov.uk/government/news/the-journey-of-the-child.

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