Rethinking child imprisonment: A report on young offender institutions

Children's Rights Alliance for England
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About this report

At any one time between two and three thousand children are locked up in prisons (called “young offender institutions”) across England. Her Majesty’s Chief Inspector of Prisons is charged with the responsibility of inspecting and reporting on conditions in these prisons.

Throughout the late 1990s, reports from the Chief Inspector became increasingly critical. At times, it seemed there were not enough words in the English language to communicate the horror and disgust of inspectors who entered these closed institutions to meet and talk to some of the country’s most vulnerable and troubled children. This deep concern was recently reflected in the concluding observations of the Committee on the Rights of the Child in the UN, which deplored the conditions UK children experience in detention and recommended their rights be substantially increased.

This report draws together the major problems and recommendations concerning young offender institutions identified by the Chief Inspector of Prisons from visits made between January 1998 and October 2001. Thirty-one inspection reports have been scrutinised. A selection of reports from Boards of Visitors and the Prisons Ombudsman have also been reviewed, together with the report from the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which visited the UK in February 2001. Together they provide compelling evidence of the urgent need to take children out of the prison sector altogether.

We recognise that there might always be a need to lock up some children, for however short a period. For them, and for a civilised society, there must be guarantees – that they will be well fed and kept warm, that they will be educated and kept safe, that they will be treated with respect and humanity and that their needs as children will be recognised and met. Above all, they must come out of custody in better shape than when they went in.

None of these guarantees can be met by the Prison Service or by institutions whose culture and bricks and mortar are the antithesis of what we know children – especially the most difficult ones – need. That is why we argue for the responsibility for children in custody to pass to another Government department, health or education for example. But this is only the first step in ensuring the mistreatment and neglect of children is never again allowed to happen. What is also needed is a comprehensive set of legally enforceable rights for all children in custody, based on international human rights law. If the State must lock up children, it must also give them legal rights that set out their entitlements and safeguards. While crucial to those passing through locked institutions, these legal rights also symbolise how much as a society we are prepared to give or snatch away from children who seriously trouble and offend us. They draw a line in the sand.

About CRAE

The Children’s Rights Alliance for England (CRAE) promotes the fullest implementation of the UN Convention on the Rights of the Child, which the UK Government ratified in December 1991. We have over 180 member organisations, including all the major children’s charities.

CRAE is a registered charity no. 1005135.
About the author

Rachel Hodgkin is a children’s rights advocate, with considerable experience in promoting and safeguarding the rights of children in institutions. She helped set up the Children’s Legal Centre in 1979 and promoted children’s rights at the Centre for 13 years, including two successful applications to the European Court of Human Rights on behalf of locked up children. In the 1990s she became clerk to the All Party Parliamentary Group on Children, working for the National Children’s Bureau. She is the author of several publications on children’s rights.

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Note on terminology

The word children is used in this document to mean under-18 year-olds, although we appreciate that 15 to 17 year-olds would probably prefer to be called “young people”. However, in Home Office reports this age group is called “juveniles”, while the 18-21 year-olds are called “young prisoners”. We preferred not to use the word juveniles, but felt that “young people” would be too easy to confuse with the young prisoners. In addition, like the Chief Inspector of Prisons, we think it important to emphasise that under international human rights law those who are under 18 years are entitled to be treated and protected as children, whatever their external appearance or behaviour.
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In 1842 the then Lord Ashley, later the 7th Earl of Shaftesbury, published his famous First Report of the Children’s Employment Commission. Referring to the plight of children aged seven or eight in coalmines, he wrote:

‘Although this employment scarcely deserves the name of labour, yet, as the children engaged in it are commonly excluded from light and are always without companions, it would, were it not for the passing and repassing of the coal carriages, amount to solitary confinement of the worst order’.

In July 1998 I joined one of my teams inspecting HMYOI Werrington. We found 180 children, aged between 15 and 18, locked up all day in cells that were little more than unscreened lavatories, in which they ate and slept, but had nothing to occupy them. This scarcely deserved the title ‘imprisonment’, amounting to confinement of the worst order. It was only not solitary confinement for some, because two children were locked up in cells designed to take one.

I wrote in the preface to my report:

‘I have not come across such totally deliberate and unnecessary impoverishment of children anywhere and suspect that, were Werrington to be a Secure Custody Unit in the hands of the Social Services, it would be closed for lack of provision of appropriate facilities. I find it quite incredible that the Prison Service should have thought it appropriate to remove tolerable, although not ideal, conditions in favour of utterly unsuitable conditions’.

Lord Ashley’s report struck the conscience of early Victorian England, one commentator writing:

‘We in England have put ourselves forward in every possible way that could savour of ostentation as champions of the human race; and we are now, on our own showing, exhibited to the world as empty braggarts and shallow pretenders to virtues which we do not possess’.
My report on Werrington stung the Prison Service into immediate and ashamed action. But, sadly, neither it, nor any of my other reports, many of which are quoted in this admirable report, appeared to embarrass the Ministers responsible for righting the situation that I reported. In doing nothing, they were following the example of too many of their predecessors, who appear to have turned a blind eye to conditions and treatment of children in prison which are unworthy of any country that claims to be called civilised.

Nothing appears to invite more prurient or censorious public interest than reports of bad behaviour by young people. But they are our tomorrow. I am one of those people who believe that the only raw material that every nation has in common is its people – all its people. Woe betide it if it does not do everything possible to identify, nurture and develop the talents of its people, because it will only have itself to blame if it fails through lack of employable and usable skills.

I am also amongst those who are extremely concerned that young males – not so much young females – appear to be in something of a crisis situation. Far too many of them consider themselves to be becoming disconnected from the mainstream of society. The numbers who have been evicted from home, live rough and/or leave school before their due date are appalling. Not only do they truant; the authorities also exclude them. I found one boy in a young offender institution who had been expelled from his play group at the age of four, and never allowed to attend primary or secondary school. What chance in life did the authorities think that he had? When I asked young prisoners why they left early, they often said that they could not remember whether it was for boredom before drugs or drugs before boredom? Why have so many had no work experience? Because the only available work is unskilled and requires no training. And so they fall prey to those who encourage them to escape from reality with the help of drugs. They form rootless packs with others in the same boat. Finding no excitement or opportunity to let off the steam that is built up as a normal part of adolescence, too many resort to crime both for excitement to relieve boredom and to provide resources to fuel their economic needs. Fathering a child is regarded as a personal achievement, not part of the creation of a family. Their attitude to society is:

‘No one takes any interest in me, so why should I take interest in anyone else’.

And then too many end up in the places described in this report, where little is done to identify and nurture their talents or connect them with society.

I hope that the report will, at last, prick the conscience of the nation. It is a national disgrace that, the United Kingdom, the fourth richest country in the world, a nation known for the civilisation it has spread round so much of the world, should have remained silent when confronted with the evidence of how its children are treated in prison. The Youth Justice Board is trying to improve the treatment of and conditions for children in prison, but it can only direct, it cannot supervise. Those who have so neglected the needs of those committed to their charge and care, should reflect on the numbers who go on to a life of crime. Small wonder if they have been led to believe that the conditions described in the report are acceptable to those in authority.

What is so sad is that, hidden amongst all that is bad, is much more that is good – good staff trying to do well by the children for whom they are responsible, but without encouragement, support or resources. If this report does nothing else, I hope that it will stimulate those who are in a position to encourage, support and resource them to do so. Then we might be in a position to be numbered amongst the champions of the human race.

Sir David Ramsbotham GCB CBE
1. Locking up children: “a disposition of last resort, for the minimum necessary period”

Introduction

This report is about 15 to 17 year olds who are locked up in Prison Service accommodation. In one very critical report in 1999 of a young offender institution the Chief Inspector of Prisons commented that the establishment:

“…marked just one further stage in the exclusion of a group of children who between them, have already experienced almost every form of social exclusion on offer.”

This is no overstatement. Research shows that, whatever offences they have committed, children in prisons are almost always victims too – victims of gross violations of their rights as children. Most have grown up in impoverished circumstances in socially deprived areas within chaotic, struggling families; many have had damaging periods in local authority care, many have been badly let down by the education system, many have faced racial and other forms of discrimination, many have been physically and sexually abused. Anyone who has worked with these children knows the painful truth of this research, and that those who portray young offenders as clever immoral thugs taking advantage of a soft system could not be wider off the mark. Select at random any inmate of a young offender institution, and you will almost certainly find a heart-breaking history of personal misery, professional neglect and lost opportunities.
The children we lock up

There is no such thing as an average childhood, but fortunately most children in our country do not have to live through a daily mix of grinding poverty, parental separation and family violence, poor education, and reliance on drugs and alcohol. To meet a group of children that have experienced all of these things, young offender institutions are the places to go. There, under one roof, you will find children whose young lives speak of disadvantage, social exclusion and unmet need. Professionals and campaigners have known this truth for years. So it was heartening when the Government’s own Social Exclusion Unit reported in July 2002 on the characteristics of children in custody.

Children in custody: what the Social Exclusion Unit found

- Nearly half have literacy and numeracy levels below those of an average 11 year-old.
- Over a quarter have literacy and numeracy levels equivalent to those of an average seven year-old.
- Between a quarter and a third of children in prison were not in education before imprisonment.
- Over half of children in custody have been in care or involved with social services.
- Two out of five girls and one out of four boys in prison report suffering violence in the home.
- One in three girls and one in 20 boys in prison report sexual abuse.
- About 10% of children in prison are from minority ethnic communities (compared to 2% of the general population).
- Two out of every five boys and two-thirds of girls in prison had symptoms of anxiety, depression, fatigue and/or concentration problems (compared to one-tenth of general child population).
- Around 85% of children in prison show signs of a personality disorder.
- One in ten children in prison show signs of a psychotic illness (for example, schizophrenia).
- One in four females (16 to 20 year-olds) and one in seven males in prison were dependent on opiates such as heroin.
- Over half the girl population in prison and two-thirds of the boy population had alcohol problems before entering prison.³

In addition, HM Prisons Inspectorate now systematically surveys a random sample of children in the young offender institutions it inspects. A snapshot of the findings from 755 children in nine institutions visited between September 2001 and February 2002 is given below.
Young and in prison: what children told HM Prisons Inspectorate

— 23% of children were from minority ethnic communities.
— 45% had been in custody before.
— 12% had children of their own.
— 37% had been in care.
— 33% had drug problems upon entering prison.
— 21% had alcohol problems upon entering prison.
— Of these, 53% had received no help with their drug or alcohol problems in prison.
— 84% had been excluded from school; 60% had been excluded on more than two occasions.
— 9% last went to school when they were under 12 years.4

No way to treat a child

This report looks at how these children are treated in young offender institutions. Section 3 examines how, even as recently as 2000, these institutions were places where the children experienced the sort of ill-treatment one would expect to find in a Dickens novel – fear, abuse, dirt, cold, hunger, boredom and despair as their daily lot. Since that time the Youth Justice Board has taken on responsibility for commissioning the placement of under-18s in penal custody, and hopefully – but by no means definitely – the worst instances of gross neglect are a part of history. Nonetheless the main section of the report, examining the detail of children’s lives in the most recent reports on young offender institutions, shows that these institutions are continuing to fail children. Far from providing the intensive, individually-tailored support to lift children out of offending that was envisaged under the new detention and training order, the institutions are still not always succeeding in keeping children from being cold or hungry, safe from physical assaults and free from long hours of pointless inactivity and the downward spiral of depression and low self esteem.

The report examines the experiences of this group primarily through an analysis of the reports of Her Majesty’s Chief Inspector of Prisons since January 1998. It also considers a number of perspectives, including of those who are working with or on behalf of children in young offender institutions, as well as the children themselves. The guiding principles of this report are the human rights of children established under international law and the rules and standards for child prisoners agreed by the United Nations General Assembly. The detail of these laws, rules and standards are contained in sections 2 and 5.

The report makes a number of recommendations. Section 2 sets out the general reforms we believe are needed to bring down the numbers of children locked up and to secure the rights of the few that must be deprived of their liberty, in order to protect others or themselves; sections 3, 4 and 5 make specific recommendations as does each subsection of chapter 6. These recommendations mainly derive from the body of international treaties, rules and standards relating to young offenders that the UK has formally accepted, or from the unenforceable prison standards officially endorsed in this country.
Good intentions: transforming Prison Service custody for ‘juveniles’

In 1997, the then Chief Inspector of Prisons Sir David Ramsbotham in his *Young Prisoners: A Thematic Review* recommended to the Home Secretary that:

“The Prison Service should relinquish responsibility for children under the age of 18”.

This recommendation was accepted, in theory, for girls under 18, although in practice between one and two hundred girls at a time are still being placed in adult prisons and young offender institutions for women.

For boys the Government response was, instead, to attempt to transform Prison Service custody into a more decent, child-centred and constructive experience by creating 13 special prisons for “juveniles”, the 15 to 17 year-olds (younger children are locked up in secure training centres or secure accommodation). The hope was that the new ‘detention and training order’ (DTO) introduced by the Crime and Disorder Act 1998 for 12 to 17 year-olds, would bring a constructive and rehabilitative direction to custodial sentences. The young offender is locked up for detention and training for the first half of this sentence, which can be for 4, 6, 8, 10, 12, 18 or 24 months, but the second half is served in the community under the supervision of a member of the new multi-agency Youth Offending Team (YOT). The new sentence brought at least two significant changes to young offender institution regimes. First, the legislation prevents children serving detention and training orders of under eight months being awarded extra days in custody if they misbehave. Second, the institution had to implement an individually-tailored training plan drawn up collaboratively with the supervising officer of the Youth Offending Team, as well as the child and his or her family.

In addition the Youth Justice Board, the non-governmental advisory body set up under the 1998 Crime and Disorder Act, was given responsibility for commissioning and purchasing places for children who were sentenced to custody. Within the Prison Service a separate Juvenile Operational Management Group was established for the under-18s. A large injection of additional cash, £51 million, for capital development, improvements to provision and for staff training, together with the introduction of an enlightened Prison Service Order, *Regimes for Prisoners Under 18 Years Old*, were further means to effect the transformation.

The results, so as far as can be discerned from the Inspection reports and other sources, have so far been great, in some cases near-miraculous, improvements to Prison Service provision for boys aged 15 to 17. This must be very satisfying to those responsible, but it has to be acknowledged that a number of the institutions being improved were so bad – were guilty of such gross violations of human rights – that even when improved they still fall short of adequate. In addition, the most recent Inspection reports released in 2002 and information coming from those working with children in custody, strongly suggest that not all establishments have improved and that the pressure of numbers is threatening the success of others. We also do not yet know whether the reconviction rate, measured on whether the boys have reoffended within two years and key to whether the institutions are “working”, has gone down. The latest figure that we obtained, for boys released from custody in 1997, was that over 84% subsequently reoffended within two years of release, an appalling figure by any standard. The Government’s claim in its recent White Paper *Justice for All* that juvenile reoffending has been reduced by 14% is not relevant in this area, because it relies on research which deliberately excluded children sentenced to custody.
It must also be recognised that a price was paid in terms of others’ rights, in that resources and ‘prisoner-friendly’ staff were moved from the 18 to 21 year-old wings of young offender institutions into the juvenile units, leaving young adults exposed to dreadful conditions. These young adults are not the concern of this report, but clearly the maltreatment and neglect of all prisoners must be acknowledged and remedied as a matter of urgency.

**How this report uses the Prisons Inspectorate reports**

*Young Prisoners: A Thematic Review* was published at the end of 1997. Since January 1998 there have been 31 inspections of English Prison Service establishments holding children (although in the case of women's prisons this sometimes only amounted to one or two girls in the whole establishment). These 31 reports form the basis of this report. The full list of these inspection reports is given in the endnotes, and, for the purposes of accuracy, the reference for each quoted extract is also provided. However this report is not about the failings of particular institutions but about the system as a whole. For this reason we have not included the names of particular institutions in the text, and have avoided using its name when it appears in an extract. Where good practice is being commended its name may be included.

In April 2000, the detention and training orders came into force and young offender institutions were governed by new Prison Service Order 4950 *Regimes for Prisoners Under 18 Years Old*. Prison Service Orders are administrative documents, rather than legally enforceable rules or statutes. Courts may have regard to their contents when considering a case, but are not obliged to enforce them or punish a breach of them. As part of their contract Governors must obey Orders, but if they do not – for example, arguing that they cannot because of lack of resources – then there is little the Prison Service Director can do about it. Certainly, so far as individual children are concerned, Prison Service Orders are much less useful than the Young Offender Institution Rules, which are enforceable in the courts, so long as children can show they have suffered injury or loss.

13 Prison Service young offender institutions for boys (one of which was subsequently undesignated for this age-group) and four for girls were designated to take the 15 to 17 year-olds sentenced to detention and training orders (with the three secure training centres taking the 12 to 14 year-olds). In addition the ‘juvenile’ young offender institutions also contain 15 to 17 year-olds children on ‘section 53’, now sections 90-92 of the Powers of Criminal Courts (Sentencing Act) 2000 sentences, which are indefinite sentences for murder and long sentences for grave offences, as well as many unconvicted or unsentenced children remanded to custody.

**Section 2** of the report contains our recommendations for general reform of the criminal justice and penal system for young offenders.

**Section 3** examines the worst experiences of boys in Prison Service custody in the period between 1998 and 2000. The section draws on nine reports on establishments holding boys under 18 years. Two of these relate to visits made after April 2000, but manifestly before the reforms to the system had made any impact.

**Section 4** examines experiences of girls in the prison system, and uses the nine reports made on visits to establishments holding girls under 18 between 1998 and 2001.
Section 5 concerns remands to prison of unsentenced or unconvicted children and draws on the full range of reports.

Section 6, the longest section, examines in detail the experiences of boys in 11 of the 13 young offender institutions now designated to hold juveniles, using the latest reports available for each institution. This means that four of the visits predate April 2000, but as these four reports are either about establishments regarded as “good” or “transformed” one can assume that the reform implementation date was of minimal importance. Two institutions, Huntercombe and Ashfield, the only private young offender institution for 15 to 17 year-olds, were not reported on for the period 1998-2001, though they have been visited.

Consultation with children

It is standard practice at the Children’s Rights Alliance for England for our work to be informed by the experiences and views of children. We planned to consult up to 25 children in young offender institutions on the draft report and recommendations. After making unsuccessful approaches to several institutions, we approached a senior official at the Home Office to seek his help in gaining access to children. We were told the Home Office would not help us. It is therefore extremely regrettable that this report does not benefit from the insights or advice of children living in young offender institutions, although of course the Chief Inspector’s reports are largely based on children’s experiences.

Consultation with children’s rights advocates and penal reformers

In May 2002 we hosted a roundtable discussion of children’s rights and juvenile justice experts. We are very grateful for all those who took part, many of whom provided subsequent information and advice.
2. What needs to be done

As well as breaching a number of human rights, the current use of custody for children is not working, is expensive, is creating more crime and more damage by the day and must be stopped as a matter of urgency. Establishing a youth justice system that fully implements the rights of offending children is not only a government obligation, it is also expedient. What more worthwhile public service could the Government undertake than one that stops child criminals developing into adult criminals?

In this section we recommend both the establishment of a rights-based system and a complete overhaul of what is euphemistically known as “the juvenile secure estate”.

1. The need for a rights-based approach to locking up children

Her Majesty’s Chief Inspector of Prisons for England and Wales is charged with reporting to the Secretary of State on “the treatment of prisoners and conditions in prisons”. The focus of the reports is therefore on the experiences of the prisoners. Where, for example, management or security or safety issues are addressed, this is only when such matters directly affect the prisoners’ welfare. All the reports are well written – clearly focused, vividly conveying both good and bad practices – and make practical and detailed recommendations for change. They are in many ways the model of what inspections and inspection reports should be.

Nonetheless, as can be seen from the fact that two institutions holding under-18s had not been fully reported on for at least four years, the Inspectorate is much too under-resourced to provide a proper safeguard against human rights abuses. Plainly, all custodial institutions holding children should receive full inspections at least annually. In addition, there have been unacceptable and substantial delays in publishing reports – up to eleven months in some cases. These delays may have been due to the Inspectorate’s production of the first draft or to protracted negotiations with the establishment and Prison Service about factual accuracy or to further negotiations with the Minister to whom the draft is sent as a courtesy before
publication. We understand that new protocols are currently being agreed to ensure reports are published within four months. Moreover at present the Inspectorate’s reports do not receive a formal response from the authorities, though sometimes a Prison Service press notice is issued to state that the worst features the inspection report highlights have now been remedied. It is clear that many children may pass through an institution that has been condemned by the Inspectorate before things are put right. And in any event, though essential, inspection of an institution is not sufficient in itself to safeguard individual children from abuse and neglect.

One question, above all, burns in the mind when reading the inspection reports on these institutions: why have there not been a succession of high-profile legal challenges to the treatment of these children? Since 1998, and of course consistently before that date, children in custody have killed themselves or have suffered gross neglect, risk of death and injury and outright abuse at the hands of the State. While we know that many children in residential care and in boarding schools have also been the invisible victims of extreme ill-treatment, the last decades have been punctuated by public scandals in the care and education systems in which perpetrators have been punished, children compensated and safeguards tightened up. In addition, British children’s law has been profoundly affected by cases taken to the European Court of Human Rights – for example our laws on care and criminal proceedings, corporal punishment, children’s access to their files, secure accommodation orders and family relationships were reformed in response to rulings from Strasbourg.

The importance of cases should not be underestimated. There are no votes in child criminals. Quite the reverse – Labour won the 1997 election on the back of one promise plastered on a last minute election poster as: “Young offenders will be punished” (not punished quickly, not punished so they won’t do it again, just punished). The media runs periodic horror stories about persistent young offenders who flout the system. The Government has effectively given up on trying to reduce school exclusions, despite overwhelming evidence of an iron link between crime and educational failure, and everyone is encouraged by the popular media to mistrust social workers or youth workers and soft options. The effect of individual scandals in this area of youth offending has been graphically demonstrated once in the last twenty years, when the suicide of 15 year-old Philip Knight in 1990 led to the – as yet unfulfilled – Government pledge to move all 15 and 16 year-old boys on remand out of Prison Service custody.

Given prevailing attitudes, nothing will be as effective in bringing change to the child custody system than high level court cases that find unlawful levels of neglect, preferably also awarding compensation to the victims. (Already European Court judgements may require statutory inquiries and compensation for any death of a child in prison"). So why have cases on behalf of individual children not been taken? There seem to be a number of reasons. First, the negative mindset of “these are criminals being punished, not children being educated or parented, so they deserve any mistreatment they get” makes people unconfident that a court case will succeed. Second, the children themselves are often reluctant to pursue a case, either fearing retribution when in custody or desiring to put the experience behind them when at liberty.

But these attitudinal obstacles can be overcome by energetic advocacy, and this is lacking for children in custody. While children in care generally have access to some kind of independent advocacy these days, and some young offenders have the good fortune to be represented by competent lawyers before they are locked up, once children are behind bars there is no consistent cadre of independent advocates to kick up a fuss about their mistreatment. (Some secure units and secure training centres are now contracting visiting advocates from NYAS, National Youth Advocacy Service and VCC, Voice for the Child in Care, but there is no equivalent in the young offender institutions). In addition casework for locked up children is
jeopardised by a weak legal framework with insufficient enforceable rights. The Human Rights Act 1998 was designed neither for children nor for prisoners so its application tends to be lateral rather than direct; the Young Offender Institution Rules are over-discretionary and not wholly enforceable (a breach is only cause for action if loss or injury can be demonstrated), and as already discussed, Prison Service Orders do not possess force of law.

We believe that the only way to properly safeguard locked-up children is to ensure that they possess easily enforceable, consistent and sufficient rights:

General recommendations for improving the rights of children in custody:

- Children should be entitled to the same rights, services and safeguards that can be claimed by children who are not locked up, save those rights that are incompatible with loss of liberty;
- Such rights should be in primary legislation (not in Prison Service Orders nor in Rules that are not fully enforceable);
- These rights should belong to the child who is locked up rather than apply to the institution that is locking them up; and should be consistent for all detained children regardless of where they are placed;
- Children who are locked up should clearly understand from the outset of their detention what their rights are;
- Locked-up children should have rights of access to independent advocates who can inform them of their rights and help them enforce any rights that are being breached.

A number of detailed recommendations are made in the final section of this report regarding the content of these enforceable rights. Some of these proposed rights are children’s international rights or from internationally agreed rules that have not yet been translated into domestic law; some are contained in Regimes for Prisoners Under 18 Years Old but not in the Young Offender Institution Rules; some arise from the recommendations of the Inspectorate or from the working groups of the Children’s Rights Alliance for England. The underlying principle for all these recommendations is that expressed in Rule 13 of UN Rules for the Protection of Juveniles Deprived of their Liberty:

Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

In other words, we believe that locked-up children should lose no rights save those which directly relate to their loss of liberty.

2. The need to change the system: too many children locked up for too long, in the wrong places and in the wrong way

Most children in custody are unnecessarily locked up – that is, they do not need to be locked up in order to protect others from serious harm. And most of them are in Prison Service-run young offender institutions, unforgettably described by the Lord Chief Justice as “corrosive” in comparison to the better-resourced child-centred secure units. Certainly re-offending rates for children leaving young offender institutions, do not suggest otherwise. Responsibility for the welfare of children in custody is uneasily shared among different bodies, with none prepared to
assume full responsibility. In consequence the rights and needs of children in custody are
dramatically neglected in every way – their health, particularly mental health, personal safety
and development, education and rehabilitation.

The numbers of children who are locked up must be radically reduced, and any necessary
periods in custody must be an integral part of community-based rehabilitation so that children
are locked up for no longer than is necessary to protect others. The places where they are
locked up must be rationalised to ensure that all offer the same levels of care, opportunity and
protection, and responsibility for the welfare of children in custody must belong to mainstream
agencies not to penal bodies.

Too many children are being locked up

In March 1999 there were 2,550 children in locked establishments in England and Wales; in
June 2002 there were 3,071. Almost all the additional five hundred were placed in young
offender institutions. The numbers of girls in custody, although small in comparison to boys,
also rose steeply over this period.  

Moreover, as the Howard League for Penal Reform pointed out in its submission this year to the
UN-based Committee on the Rights of the Child, the growing use of custody for children over
the last decade has not corresponded to an increase in crimes committed by children. Quite the
reverse: numbers of children found guilty or cautioned has steadily decreased since 1994.

Article 37 of the Convention on the Rights of the Child states that children must only be
deprived of their liberty “as a measure of last resort and for the shortest appropriate time”.
The Committee on the Rights of the Child has indicated that it regards the UN rules and
guidelines relating to juvenile justice as providing the detailed standards for implementing
article 37. Rule 17 of the UN Standard Minimum Rules for the Administration of Juvenile Justice
(‘The Beijing Rules’) provides:

The disposition of the competent authority shall be guided by the following principles:

(a) The reaction taken shall always be in proportion not only to the circumstances and
the gravity of the offence but also to the circumstances and the needs of the juvenile as
well as to the needs of the society;

(b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful
consideration and shall be limited to the possible minimum;

(c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated
of a serious act involving violence against another person or of persistence in
committing other serious offences and unless there is no other appropriate response;

(d) The well-being of the juvenile shall be the guiding factor in the consideration of her
or his case.

The official commentary to this rule states that Rule 17 implies:

…that strictly punitive approaches are not appropriate. Whereas in adult cases, and
possibly also in cases of severe offences by juveniles, just desert and retributive sanctions
might be considered to have some merit, in juvenile cases such considerations should
always be outweighed by the interest of safeguarding the well-being and the future of
the young person.

Rule 2 of the UN Rules for the Protection of Juveniles Deprived of their Liberty makes a similar
requirement:

…Deprivation of the liberty of a juvenile should be a disposition of last resort and for
the minimum necessary period and should be limited to exceptional cases. The length of
the sanction should be determined by the judicial authority, without precluding the
possibility of his or her early release.

In short, children should only lose their liberty in order to protect others from serious harm (or,
arguably, to themselves: this is not the subject of this report) and locking them up is the only
way to ensure this. Thus the purposes of retribution or deterrence must play no part in the
custodial sentencing of children.

**Children are not receiving a custodial sentence as a genuine measure of last resort**

To be satisfied custody was being used as a last resort, one would need evidence that all
possible alternative steps had been taken, or had been shown to be ineffective, to prevent the
child from committing another serious offence. The sad fact is, as most governors, staff and
visitors will testify, a great many children arrive at young offender institutions as the victims of
gross neglect by their families and the responsible professionals in their lives. The numbers of
locked up children could be greatly reduced if the kind of experience they have in the best of
the locked establishments – such as individually tailored education and vocational training,
being listened to and given respect, responsibility, kindness and mentoring, the provision of
good mental health services, good food, pleasant surroundings and lots of games, diversions
and recreational activities – were available to them before they lost their liberty, thus hopefully
diverting them from their criminal activities. It is impossible to escape the irony that the most
commended of the young offender institutions start to look like decent boarding schools. This
begs the obvious question: must children be locked up before they are treated well?

What is needed is a radically new approach to custody that removes considerations of
retribution and deterrence and strictly limits the deprivation of children’s liberty only to those
who demonstrably need to be locked up in order to stop them from damaging others. The
resources that are currently put into locking up children who do not need to be should be
diverted into community-based initiatives. Individually tailored packages under the new
“intensive supervision and surveillance programmes” could be much enhanced by many more
community-based facilities, and children and adolescent mental health services could finally
take proper responsibility for the needs of this group of young people.

In addition, one should commend and preserve the excellent work sometimes done in young
offender institutions and secure units, irrespective of their locks and bars. Plainly some children
– possibly many more than are now receiving custodial sentences – would like and need to get
away from their homes, where they have been labelled as failures and oppressed by chaotic
families or fearsome peer pressures, in order to refashion themselves. No-one at the moment
offers young people of 15 and over the opportunity to live away from home on a voluntary
basis, in a place where they can acquire new skills and ways of life. Non-custodial voluntary
residential placements, marketed as a college or a respectable training placement rather than as
an “approved school” should be one possibility for young offenders.
Children are being locked up for too long

An equally difficult question is, what does it really mean to lock children up for the “minimum necessary period”? Recent Inspectorate reports express doubts about the effectiveness of the short detention and training order (DTO), aside from a relatively short-lived concern that young offender institution staff had lost the power to award additional days in custody for short sentences. The reports note that many of the children sentenced to short DTOs in young offender institutions were relatively young and had histories of failed community-based interventions. In one report the Chief Inspector of Prisons notes:

> It is becoming clear that a number of Magistrates are increasing the use of DTOs, and its offer of a period of time in custody. This is particularly true of the short – 4 and 6 month – sentence, of which only 2 or 3 months are spent in each phase. I suspect that one of the reasons is that they see it as opportunity for YOTs to secure the reengagement of children with mainstream services who, in many cases have abandoned them.

- This is a very short period of time in which to assess the needs of, treat and prepare for release of a juvenile. It suggests that there is a need for the time to be modularised, with plans made for how the time available in each phase is to be used to best advantage. These plans should apply to those on DTOs anywhere in the country, although they may be coloured to suit local conditions, which will require overall supervision throughout the juvenile estate.

- There is growing evidence that many of those being sentenced to DTOs have never previously been given custodial sentences, but have long records of intervention by other community based agencies. The degree of social neglect that they bring with them is frightening; they have been described as the detritus of long standing social exclusion. It is uncertain what Magistrates hope YOIs will be able to do with them in such a short time, but this trend suggests that there needs to be a dialogue between sentencers and those responsible for supervising their treatment, to ensure their intent on sentencing matches the institution’s ability to achieve it.

In *A Second Chance – A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service* published by the Chief Inspector of Prisons in November 2001, the effectiveness of a short custodial sentence is more sharply questioned:

> In many of the establishments that were inspected, over 50% of the population were serving four or six months DTOs, equating to custodial periods of two or three months. Even if an establishment was operating in near ideal conditions, there would be serious questions as to what training was possible in such a brief period. The reality has been that for much of the period under review, the large numbers in this group were a major destabilising factor. Attempts to make adequate provision for them inhibited the development of purposeful regimes for those serving longer sentences…

> Clearly, many of those serving the DTO were in custody for too short a period for the necessary security procedures to be completed, but a progressive re-engagement in the community would seem to be an essential component of resettlement and the seamless sentence… There appeared to be some tensions, and indeed inconsistency between the Standards that had to be met to satisfy the Prison Service conditions for release on temporary licence and the concept implicit in the DTO of the seamless sentence and of a graduated return to the community.
But though these concerns may be valid, the solution cannot be to opt for long custodial sentences for children simply because rehabilitative staff in the locked institution cannot make an impact on them in a short period. This would be wrong for three reasons.

First, it would be breaching children’s right under international human rights to be locked up for the minimum necessary period. On this point we would comment that children already appear to have their rights breached under the Human Rights Act 1998 because they are subjected to a minimum custodial sentence of two months, as opposed to adults who may receive minimum sentences of a few days in custody – or even none when remand time is taken into account – for the same offence. This is a form of discrimination.

Second, however good the rehabilitative work in custody it will always be less certain of success than rehabilitation that occurs in the child’s home setting, simply because the locked institution is an artificial world. Complete rehabilitation will only occur when children are living in their home settings, faced with the conditions and temptations that led to their offending. (As discussed, this is not denying that some children need to have a break from their home community, but the success of such a break is largely dependent on the child’s commitment to change. A compulsory spell in custody has a much weaker chance of success than a voluntary placement in a non-penal residential setting).

Third, if short custodial sentences were abandoned then it would be naïve in the extreme to think that only the children who were committing more serious offences would receive the longer sentences, so reducing numbers in custody. History tells us that, in general, if magistrates have powers to lock up offending children they use these powers unless actively directed not to or prevented from doing so. This is not to denigrate magistrates. Social services have always filled up secure unit places, and no doubt some parents would lock up their misbehaving teenagers if they could.

**Children are being locked up in the wrong places**

It is obviously wrong and discriminatory to have one group of children locked up in institutions that cost an average of £104 per day (young offender institutions) and another group of children, of the same age and with the same problems, locked up in institutions that cost an average of £407 per day (local authority secure units). Even within the 13 designated juvenile institutions within the Prison Service, per capita costs can vary between £60,000 a year (Hindley, Feltham and the specialist units at Castington, Hollesley Bay and Huntercombe) and under £34,000 per place per year. Moreover, anyone who works in education and mental health systems knows that only chance has routed some children into open EBD schools or adolescent psychiatric units rather than a locked young offender institution or secure unit. The variation in resources, services, philosophy and label between these settings can mean a completely different experience and life outcome for the child concerned.

The time is long overdue for this discriminatory system to be rationalised. In 1997 the Chief Inspector’s *Young Prisoners: A Thematic Review* recommended to the Secretary of State: “The Prison Service should relinquish responsibility for all children under the age of 18”. This recommendation was not accepted, but since that date the Youth Justice Board and Prison Service have taken active steps to make young offender institutions more appropriate to children, injecting resources, recruiting child-friendly staff, training them on the distinctive needs and behaviour of under-18 year-olds, and requiring the institution to meet the new Prison Service Orders *Regimes for Prisoners Under 18 Years Old* and *Regimes for Young Women under 18 Years Old*. 
The effect of this has been to increasingly distance the ‘juvenile secure estate’ from the adult side of the Prison Service. The Juvenile Operational Management Group (JOMG) has found that many aspects of Prison Service orders, standards, training and administration deemed appropriate for adult prisons are manifestly inappropriate for children, and has therefore had to develop its own distinctive management style. In addition JOMG’s commissioning agent is not the Home Office but the Youth Justice Board, a quango acting under special powers delegated to it from the Home Secretary under the Crime and Disorder Act 1998.

It could be argued that this has led young offender institutions for under-18s gradually becoming a distinctive provision without throwing the baby – the good aspects of the Prison Service - out with the bathwater. And it must be acknowledged that the best young offender institutions are better places than the worst secure units, despite having fewer resources, and that there are imaginative programmes and excellent staff in young offender institutions who provide just what the children need (this is stereotypically characterised as the sort of ordinary kindness that might be given by a concerned relative, as opposed to an over-professionalised social work provided in secure units). Nonetheless, to have young offender institutions as a part of the Prison Service, with governors and managers hooked into a prison career, and staff, whether or not they wear uniforms, who are members of the notoriously anti-prisoner Prison Officers Association, irredeemably brands the institution as penal and containing, rather than child-centred and rehabilitative. All the endeavours of the Youth Justice Board and the Juvenile Operational Management Group are heaped sandcastles against the punitive tide of the Home Office. While remaining the responsibility of the Home Office and Prison Service, the inmates of young offender institutions will always be criminals first and children second.

We therefore believe that the Government must stop tinkering with the current mixed provision of lock-ups for children and grasp the nettle of total change, putting all locked provision for children under the direction of one welfare-based Department (there are good arguments in favour of either Health or Education). Prison Service staff who have chosen to work with under-18s and have shown an aptitude for this should be encouraged to apply to work in the new system with an alternative career structure. (Equally, restructuring the system will hopefully enable it to lose those staff – in secure units and secure training centres as well as in young offender institutions – who patently dislike the children in their care, since such staff are often the root cause of a bad institution).

We do not support privatising child custody. Aside from the usual concerns about the privatisation of public services (which appear to be fully realised in the case of the one privately-run young offender institution, Ashfield) there are three additional arguments against. First, there is something morally repugnant about profits being made out of human misery. Second, liberty is such a fundamental human right that locking up people should be the direct responsibility of the State alone, operating within the limited framework allowed by the relevant human rights treaties and standards. Third, child incarceration appears to be an area where supply creates demand rather than the reverse, in that locked places for troublesome adolescents will always be filled but if there are no locked places available then other – usually more constructive, certainly unlikely to be more destructive – alternatives are pursued. The simplest solution to rising numbers of locked up children is to reduce the numbers of available locked places. Private, or, indeed, not-for-profit organisations that run locked institutions will always need to maintain an economically viable population of inmates, which in turn creates a subtle pressure on the youth justice system to maintain the numbers of children sentenced to custody. (Indeed it is hard not suspect that there is, or soon will be, a profit motive behind the increase in custody). What is needed is a highly flexible system predicated on the presumption
that children should not normally be locked up and should not stay locked up a second longer than they need be.

Such a system would arguably only work if locked places for children are seamlessly woven into other mainstream services.

**Children are being locked up in the wrong way**

Who is responsible for children in custody? The buck for locked up children is endlessly shifted from agency to agency. At a local level social workers appear to assume that the Youth Offending Teams (YOTs) take on responsibility once a child is charged, though YOTs do not have duties to promote children’s welfare, only to prevent them from offending. Local authorities claim the Home Office has responsibility since it has financial responsibility for children in custody. Meanwhile education legislation specifically absolves education authorities of all duties towards children in custody, and the National Health Service is similarly taken off the hook by the Prison Act 1952. A court case taken by the Howard League is currently determining whether local authority social services’ responsibilities, and the remit of the Children Act 1989 generally, extend to young offender institutions. Certainly there is widely-held belief this not the case, and until recently it has been the practice of social work and child protection systems not to include Prison Service establishments holding children.

As regards young offender institutions, an extraordinarily complex system of accountability appears to exist since, within the Prison Service, the director of the Juvenile Operational Management Group is only fully responsible for the five boys’ units that do not share facilities with over-18 year-olds, otherwise sharing responsibility for split establishments that include under-21s, while the Director of the Female Estate is responsible for managing the four institutions designated to take sentenced girls under the age of 18. However these people are in turn accountable both to the Prison Service Director and the Youth Justice Board (YJB), the commissioning agent. Meanwhile the YJB maintains that its liability for the welfare of child prisoners ends with their placement. The Home Secretary is ultimately responsible for the care of all prisoners, including those under 18, but this does not appear to place him in the position of parent, although the children’s own ‘parents’ – parents, carers, local authorities – have virtually no exercisable powers while the child is in custody. In short, children in custody appear to be this country’s orphans, with no-one fully accountable for their welfare.

We believe that local authorities and health authorities should have the same statutory and administrative responsibility for children in custody within their geographical area as they do towards other children, arranging the provision of health (including mental health), education and social services for them and their families. The implications of this are highly significant. In the more detailed discussion of health, education and social services we argue that the failure to give these children the same protective and educational rights as other children amounts to discrimination and a breach of the Human Rights Act 1998. In addition, we believe that if local agencies were to have direct oversight and responsibility for children in young offender institutions they would operate in a completely different way, particularly as regards meeting the children’s mental health and special educational needs and helping them prepare for release. Arguably, if local authorities had shouldered parental responsibility for children in care who were placed in custody most of the suicides of children in prison over the last four years would not have occurred.

Finally we note that the Treasury has heralded development of ‘Children’s Trusts’, proposed to join up local services to children into more coherent provision; we also note, with alarm, that young offenders are continually omitted from the projected remit of these Trusts. Youth
Offending Teams (YOTs) are an admirable attempt to ensure that children who offend receive a bundle of different professional supports, but we do not believe that YOTs would survive in parallel to Children’s Trusts – clearly responding to youth offending must be an integral part of any homogenised children’s service.

**Recommendations for reforming locked provision for children**

- Children should only be locked up through the criminal justice system in order to protect others from serious harm, and the decision to do so should be subject to frequent periodic reviews;
- The numbers of available locked places for children should be radically reduced;
- Resources currently spent on locked places should be diverted to alternatives to custody, including pilot projects providing non-punitive training in residential placements away from home;
- A welfare-based department of state (health or education, not the Home Office or Prison Service) should have direct responsibility for the welfare of all children under 18 in locked units and for running these units;
- Local social, education and health services should have same legal responsibilities for meeting the needs and rights of children in locked units within their area as they do for other children;
- Any difference between units that lock up children should relate solely to the differing needs of the children; thus the current massive discrepancies of resourcing between secure units, secure training centres and young offender institutions should largely be eliminated.
3. Breathtaking levels of neglect

This report tries, in the main, to concentrate on present conditions for children in Prison Service custody. This is not easy given the unprecedented rate of change within this area and the Prison Inspectorate’s slow rate of progress both in visiting the many establishments holding under-18 year-olds and in publishing its reports, but it is obviously essential if our purpose is to achieve change for children in custody.

This section, however, looks at the earlier reports on children in young offender institutions (YOIs), after the Chief Inspector’s 1997 *Young Prisoners: A Thematic Review* but before the new Youth Justice Regime properly started to be implemented.

Why do we do this? For two reasons. First, it is important to recognise how much progress has been made, and can still be made, in a relatively short time. Second, while children in YOIs these days are – so far as we know – not suffering the appalling treatment that they were a few years ago we should not forget the children who did. The Government did not rescue them or stop the ill-treatment at the time; no-one has yet paid them compensation; no-one took their cases to court or to the European Court of Human Rights. These children were abused by the State that was completely responsible for their care, and we should not skate over the gross violation of their rights. The Government should at least compensate those children who suffered serious violations of their rights during the period of its office.

**The Chief Inspector’s outrage: six of the worst**

Having completed his *Young Prisoners: A Thematic Review* in 1997, and with a new Government committed to the concept of improving custody for children, the Chief Inspector might reasonably have expected that conditions in young offender institutions would rapidly improve. But between 1998 and 2000 the Inspectorate visited six establishments holding children under 18 where conditions were as bad as, or worse than, anything that led to the 1997 Report.
In June 1998 the Inspector reported on one institution:

To find children no longer eating together, but forced to take their food back to their cells, which are little more than lavatories, to eat, being limited to two evenings of association in a week, on landings where there are no chairs, so the time amounts to little more than an hour and a half standing outside rather than inside a cell, would be bad enough if found in any juvenile establishment. To find that adult prison conditions have been deliberately introduced, over-turning previous and appropriate treatment and conditions for children, is nothing short of disgraceful.\textsuperscript{15}

He then reported on a visit made to another institution in December that year. This inspection was, he said:

…without doubt, the most disturbing that I have had to make during my three years as HM Chief Inspector of Prisons… conditions and treatment of the 922 children and young prisoners… are, in many instances, totally unacceptable. They are, in many instances, worse than when I reported on them two years ago…\textsuperscript{16}

The report on the inspection made on another establishment in October-November 1999 was equally condemning:

This is a very disturbing report… It discloses some wholly unacceptable treatment of and conditions for young offenders, including children, which are far removed from the published intentions of the Government, the Prison Service and Youth Justice Board. Unacceptably it discloses that many of the improvements and advances, made elsewhere in recent years, appear to have passed, or been allowed to pass the establishment by.\textsuperscript{17}

His disgust at the staff in the fourth establishment visited a month later was even stronger:

We came away from this inspection with the impression that if they wanted to staff could provide a much more satisfactory routine, at no extra cost, and they knew it…

The experience of custody at [this institution] marked just one further stage in the exclusion of a group of children who between them, have already experienced almost every form of social exclusion on offer.\textsuperscript{18}

A young offender institution visited in June 2000 had not been inspected for over six years and this was unfortunate because:

Our inspection… was one of the most disturbing my team and I have ever carried out, disclosing a level of neglect and lack of understanding of the needs of young prisoners that was breathtaking.\textsuperscript{19}

Four months later a report was published on a sixth institution:

Over the past five years I have published a number of reports of inspections of Young Offender Institutions (YOIs) that have recorded wholly inappropriate or unsatisfactory treatment of and conditions for children and young prisoners held in Prison Service custody. In none of them have I had to report such an horrendous number – 717 – of reported injuries to children and young prisoners over a period of eight months, from a variety of causes…
The levels of distress and neglect in A and C Wings, the juvenile induction and remand wings are an indictment of the Prison Service’s duty of care, which, if delivered in non-Prison Service establishments, would have resulted in their closure. That is why I am recommending to the Home Secretary that no more children should be sent to these wings until decent and humane treatment and conditions are not only in place, but can be guaranteed. I wrote to the Home Secretary on these lines immediately following the inspection.²⁰

All six establishments have since much improved their conditions, for which the Chief Inspector must take some credit as well as those governors and staff members who were responsible for the transformations. However, as section 5 shows, all the young offender institutions currently holding under-18 year-olds still have serious defects and face difficult problems.

The rest of this section, drawing on these six reports and three others, describes in greater detail the appalling experiences children have had in custody in the years 1997 to 2000.

**Staff attitudes**

The inspectors are always careful to give credit where it is due and there are always some staff members who genuinely care about the children and struggle against the odds to treat them with respect and kindness. But these reports do, above all, read as an indictment of management and staff who have acted negligently and abusively.

In some cases this negligence is due in part to lack of resources:

> When we carried out our inspection we found that young prisoners on the unit had not been unlocked for five days over a weekend period other than to collect their meals: we were told this was due to staff shortages. This meant that they had been unable to have a shower, make a phone call, chat to another person other than their cellmate or select a book from the limited stock available since arriving on the unit. None had received a change of clean clothing since their arrival. A sixteen year old who was in custody for the first time was sharing a cell with a twenty-year-old young prisoner on remand for serious violent offences. We found a deaf young prisoner in another cell with several staff on duty unaware of his handicap.

However, in at least one unit the staff were criticised for failing to act out of laziness, rather than being unable to do so. The Inspectors noted that, unlike most prisons where ‘time off in lieu’ (TOIL) is owed to staff, in this young offender institution, virtually no TOIL was owed: “indeed 70% of staff owe duty time to the prison!” As a result the children were neglected and at risk. For example their induction to the establishment – when children are known to be at their most vulnerable – was cursory in the extreme, with children simply shown how to make up a bed and organise their kit and then being left to get on with it.²² Another depressing example found in the records of complaints the inspectors routinely examined:

> …a young prisoner had, over a period of three weeks and without success, asked officers to repair a broken cell window. The reply on the form was unhelpful and contained unnecessary sarcasm, “I would suggest you give us a clue to which window is broken as there are 810 windows on the unit.” ²³
A victim of staff neglect

We talked to one trainee in his cell. He was sitting on his bed in a foetal position, just rocking backward and forward. There was no eye contact and he was reluctant to give other than single word responses to our questions. After some while he began to cry, “My head hurts, another boy punched me all over the head in education. I was bleeding from my nose and had a cut on my ear. I’ve also got this rash on my hands (looked like insect bites). The nurse came to see me and did nothing for my injuries. She looked at my hands and said I had dry skin and then told me to go back into my cell”. He continued, “I’m in here because I had thrown my chair against my cell door. The officer came in and made as if to punch me. I want to get out of here. I’ve lost my canteen because I’ve been banged up in here. I had a shower five days ago and even though I asked for another shower three days ago, I haven’t had one.”

Soon after we left his cell and walked along the spur corridor, there was a very loud noise of drilling. Since the observation window in this trainee’s door had been damaged, a Works officer was removing rivets from the cell door in order to replace the viewing panel. The trainee inside was screaming, “Get away, leave me alone, go away.” The noise level of drilling metal was painful and must have been intolerable to the boy in his cell. We returned to his cell door and told him what the Works officer was doing. Once he knew, the boy then retreated to his bed. This particular trainee was known to be at risk of self-harm and had an open F2052SH [the form for suspected risk of self-harm].

The staff in another establishment were notoriously militaristic and punitive. The inspectors found, for example, that, contrary to the Young Offender Institutions Rules, if the juveniles had not made up their bed to standard, they were refused association that evening; the children complained to the inspectors of being pushed on the gym circuits until they were physically sick. If the less capable did not perform well enough then everyone had to do the circuit again. The inspectors commented that:

…some members of staff have served in [this institution] for more than 25 years, and it tells; they are in a time warp as far as change and the appropriate treatment of young prisoners and children are concerned… This amounted to the belief that only certain young prisoners would be sent there, for ‘disciplining’, and disciplining by fear and shouting is what we mean by the outdated militaristic systems…

They observed that such an approach was, in fact, only superficially challenging:

A highly regulated authoritarian regime can give some staff a sense of security but it also allows young men to coast along without questioning their offending behaviour and social immaturity.

In another establishment the Inspectorate concluded that the staff’s punitive and callous attitudes were entirely deliberate:

Overall, they did not see it as their responsibility to continually check on the well being of young people. This meant that a considerable amount of distress and problems were
going unnoticed or unidentified. Indeed, some staff felt that the total experience of custody was meant to be disturbing for the young person. This attitude was quickly picked up by both juveniles and young adults. There seemed little point in complaining or making requests if the overall experience they had to endure was one of violence and blind obedience.28

**Violence and bullying**

One result of these negligent attitudes was that children were often either actually assaulted by others or were living in permanent fear of being bullied:

It was clear from the return that far too many young prisoners did not feel they were safe. 61% of juveniles and 70% of young offenders said that they were shouted at through the windows. Thirty three per cent of juveniles and 23% of young offenders were put through some sort of initiation test on arrival at the establishment. This has to be seen against a background of 52% of the population experiencing their first time in custody. A high proportion stated that they had received insulting remarks, been kicked or assaulted and had their personal property taken from them.

All [remanded] juveniles who had arrived in the previous ten days to the inspection said they were very frightened and in constant fear of assault from other children…. Given the fear openly expressed by juveniles, the induction experience appeared to be one of attempting to survive from day to day.28

…children, often arriving late at night, are then led to the houseblock, undergoing a torrent of abuse from other juveniles, where they are housed overnight in a double cell, often with someone whom they do not know.30

Many young prisoners attending health care told us that the major problem they experienced at [the institution] was bullying on the residential units and many inpatients told us that they were frightened to return to general location. Some of them were not ill but were seeking refuge…31

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**Two victims of bullying**

One juvenile seen had been in… for two weeks. He had two black eyes and stated that he had been attacked four times, twice in the showers and twice on the stairs. He was also considerably distressed. Staff had noticed his eyes, but he reported that they had told him that they were powerless to do anything about it if he did not say who had attacked him.32

We talked to another trainee in his cell. Of slight stature, he said that he was always getting bullied. He bought shower gel only to get it stolen, “a lad just comes into my cell and says, ‘that’s mine’ and takes it. I told the officer but nothing happened”…this boy began to cry within a couple of minutes of talking to us. He said, “when I cry, the officer says, ‘it’s no use being a cry baby in here’. I just press my cell buzzer, I’m stressed out and I want to talk to someone. When I was in a different cell, they just kept me in there. I pressed my buzzer and I was slapped all over. I felt like killing myself that day. I’m sick of it.”33
Inspectors found that far too little was done about bullying, indeed in one institution:

...beyond increasing the number of cell searches, it was difficult to make the living experience of a bully much more impoverished than it was for those on normal location... it was much easier to remove the victim than deal with the perpetrator.34

In another they found evidence of staff either turning a blind eye or colluding with serious bullies:

Staff told us that a great emphasis was placed on control yet we observed open intimidation by young prisoners on other young prisoners which was not addressed by the officers. Some juveniles appeared exempt from staff discipline whilst others, perhaps less difficult young prisoners, were frequently verbally reprimanded.35

They even found one unit still exposing children to the attentions of highly dangerous adults not only in the visiting and court discharge sections but also in the segregation unit:

There was no designated accommodation for juveniles and young offenders in the Segregation Unit but nevertheless they were occasionally held there. We were alarmed that 15, 16 and 17 year old children should be in such close proximity to dangerous and sophisticated adult prisoners even though the juveniles themselves were very disruptive. Our alarm was increased by what we considered to be illegal use of segregation of sentenced juveniles in adult accommodation and under Prison Rule 43 rather than Young Offender Rule 46.36

**Risk of suicide, self-harm and avoidable ill-health**

Another danger is that staff or management negligence will lead to self-inflicted or avoidable deaths, injuries or ill-health. Indeed some of the institutions seemed to have been extremely lucky not to have fared worse. One of them, despite having experienced a number of suicides, was still not routinely undertaking vulnerability assessments for newcomers. In the same establishment, the doctor had inadequate hours which meant he would sometimes leave before seeing all the sick children.37 In another institution some children were losing their liberty because of lax psychiatric services:

We were told that each month one or two psychiatric court reports were not ready on time, leading to the postponement of the hearing and possibly lengthening the period of imprisonment for juveniles and young offenders on remand by up to three weeks.38

In one institution the Inspectors were extremely critical of a “wholly inappropriate” drug programme “designed for adults at the last extreme of a life time of addiction”39 and in yet another they commented that, contrary to the prison health care standards:

Patients did not have named nurses... and there were no individual nursing care plans... We were told that staff were not confident that patients would always get their medication on time nor that basic nursing observations would be completed.40
Mental health risk: alone and traumatised

A young man had woken up one night to find his cell mate trying to hang himself. Until help arrived, he had borne the weight of this boy and the cell mate was subsequently taken to the Health Care Centre. The young man, himself, had remained in that cell. No-one talked to him, no-one counselled him. No-one subsequently gave him work on the unit to enable him to get out of that cell with all its horrible memories. He had not been given a replacement cell mate, despite asking for one and so remained alone.41

In particular the inspectors were concerned about the very real risk of suicide posed by the conditions they found, and which raised very fundamental questions about the delivery of health and mental health care in prisons:

We were told that continuous observation and contact with prisoners considered at risk of self-harm would be provided in the new Health Care Centre. However, no additional resources had been allocated to meet this essential recommendation. We found both ‘strip’ rooms in the Health Care Centre occupied during our inspection. Both young persons to whom we spoke were distressed by their seclusion, isolation and the lack of human contact. We found that the ‘strip’ rooms had been used for juveniles; for 15 year olds on three occasions, for a 16 year old on one occasion and for 17 year olds on 15 occasions in the previous 12 months. We found that young persons in the two ‘strip’ rooms had no ready access to the Samaritans by telephone. Although the purchase of a mobile phone with a direct line to the Samaritans for the use of those in ‘strip’ rooms had been approved over four months before our inspection, no action had been taken to buy one.42

The Prison Service talks of humanity in its Statement of Purpose, and professes to take the issue of self harm – abnormally high at [this institution] – and suicide seriously. There is no 24 hour health care cover so, if a child seems depressed, and is likely to self harm, he is at once moved on to [another YOI], from where he may or may not be returned. Despite all the Prison Service Healthcare instructions, a doctor is only available for 11 hours per week, so it is impossible for new prisoners to receive proper medical examination on arrival. While on the subject of Health Care there is no Health Care Centre as such. Three rooms, on the top landing of the houseblock have been turned into a makeshift centre. A further room, again on the top landing of the ‘warehouse’, has been equipped with a dentist’s chair.43

The Director of Health Care is responsible for the policy of equivalence with the National Health Service, but not, apparently, for ensuring that equivalence is delivered. In the case of [the institution] this means that he is not responsible for ensuring that there is 24-hour medical cover for mentally disordered children, or that vulnerable children and young prisoners are not put into unfurnished cells in the Health Care Centre, when deemed to be at risk of suicide or self-harm knowing that there are no medical staff on duty at night. If the Director of Health Care is not responsible for directing Health Care, and rectifying deficiencies such as this, but only for advising the Prisons Board about policy, then the Director General and line management, who allegedly are, must be held to account. But who is to do this? No wonder there are so many problems with the delivery of the laid down standards.44
Dirt, disrepair and hunger

In a number of the establishments the living conditions of the children were at a level of squalor and degradation inconceivable for the end of the twentieth century. In two, at least, children were forced to slop out:

The worst examples were found in single cells that were occupied by two young prisoners in which the toilet was only several inches away from the bunk beds and without privacy screens. Many prisoners could only sit sideways on the toilet seats in these cells.45

There were no designated cells for juveniles. Four cells situated at the end of each landing were used as observation cells to locate a young prisoner who was upset or thought to be at risk of self-harm… The young prisoner would be doubled up with another young prisoner who was deemed suitable… There was little room for anything else apart from the bunkbeds. There was no in-cell sanitation and the occupants had no access to night sanitation and therefore had to resort to using pots. In such a confined area and with no privacy this was obviously degrading.46

Dirt, grafitti and rubbish were found all over the place. In one institution:

The cells [for remanded juveniles] were dilapidated, dirty and cold… bedding and linen were unwashed… many young prisoners had no blankets.

[On reception] the dressing gowns which were in constant use by different youngsters had not been laundered for months. The toilets were filthy. There was no access to showers. The holding rooms in which they waited their turn were dirty; the worst being those which were used to hold vulnerable young prisoners. These had obviously not been properly cleaned for some time and some were covered in obscene and racist grafitti. On three separate occasions we found the cell call bell system for these cells had been switched off.47

In another institution the inspectors complained that “the condition of bedding in cells was awful. Mattresses were stained and often covered in grafitti…”; in the health centre they noted that some of the rooms were “oppressive and smelly”, and the inspectors observed that:

Expanded metal cages had been fitted outside the cell windows to prevent occupants from throwing litter and other items into the grounds. These cages were unpleasant and they commonly contained rubbish that attracted vermin thus making them a potential health hazard. The rubbish was frequently ignited by the occupants, destroying the glazing, making the cell uninhabitable and in some cases damaging the roof structure above, disfiguring the elevations.48

These growing children also had to face poor food arriving after long periods without anything to eat. In one unit the inspectors observed that “lunch was served at 11.30 and tea at 16.30 with nothing until breakfast at 0800 the next day”49; in another the gap between the evening meal and breakfast was even longer – 16 hours – with unpalatable food “transported in a casual fashion over considerable distances under the erratic propulsion of young prisoners.”50
Clothing, too, was in some cases “pitifully inadequate”.

All young prisoners had to wear prison issue clothing. This mainly took the form of loose fitting tracksuits and there was no possibility of taking pride in this outfit. The wearing of their own trainers in cell and during association had been introduced but they were not allowed to have them in possession unless they had two pairs in the establishment… young prisoners complained about having only one pair of underwear and socks for a week; staff confirmed this.

Failure to rehabilitate

Above all, these children were not being offered any possibility of escaping from the criminal behaviour in which they had become trapped. In most of these establishments the children were often locked up unoccupied in their cells for most of the day – sometimes even for the whole day. Education was, too frequently, inadequate or even non-existent, even for children under school leaving age.

A 16 year old boy had been on [the] unit for three months. He told us: “I have nothing to do. I get hungry and there’s nothing to distract me. If I get depressed, I talk to the chaplain and ask him to pray for me. Most of the time I sleep. My mum’s not at home during the day and I’m not allowed to ‘phone her in the evening”.

Contact with family and with the home community are essential even for children who are being stimulated and rehabilitated within the locked establishment. However the inspectors found in one establishment the children had visits of only 20 minutes every two weeks, and in another they discovered that some children were not being visited for reasons which should have been remedied by the staff:

One such child was very distressed because his mother had terminal cancer. Another very withdrawn child felt his family had already suffered enough on his account.

One of the most damning comments by the inspectors was directed at the failure of the staff not in terms of what was happening inside the establishment, but what happened after:

One statistic, however, stands out above all others at [this institution] as an indicator of the attitude of too many members of both management and staff towards those for whom they have a duty of care – no matter whether their charges are adult or juvenile, the numbers of those being released who leave without knowing whether they will have a roof over their head that night. Never before have we found any establishment from which at least 50% of those who, on release, have ‘No Fixed Abode’ to go to… the fact that too many managers and members of staff did not see this as being any responsibility of theirs, illustrates just how wrongly based is their attitude to their duty of care.

The anger of the inspectors is well-directed here. The stated aim of young offender institutions is to “help offenders to prepare for their return to the outside community” and if a child is released without an assured home to go to it is difficult to see how they can embark on a law-abiding, productive life.
Recommendation

We recommend that the Government identify the young people who suffered serious violations of their rights in young offender institutions from May 1997 onwards and compensate them appropriately for any injury or loss.
4. Girls under 18 in young offender institutions

Girls under 18 are not supposed to be in young offender institutions. On March 8 1999 the Home Secretary announced that from the introduction of the detention and training order in April 2000, sentenced 15 and 16 year-old girls would be placed in local authority care, not prison. A ministerial decision was made at the outset of the Youth Justice Board, in April 2000 when the detention and training order was introduced, that all girls under the age of 18 should not be held in the prison system beyond March 31 2001. The aim was to place them in secure units and secure training centres instead.

However by March 2001 it was clear that this was not going to be possible, so it was postponed for another year. During the year March 2001-March 2002 the numbers of girls being remanded to custody or given custodial sentences rose from 88 to 119; there was a similar rise in the numbers of girls in local authority secure units (from 54 to 63). This has made the objective of no girls in prison service custody a currently unattainable objective.

As a result, at any given time, women’s young offender institutions have had to accommodate between 75 and 128 girls under the age of 18. Four prisons were designated to take one hundred girls under-18 Brockhill, Bullwood, Eastwood Park and New Hall, with girls on remand being sent, in addition, to more local prisons, such as Holloway, Styal and Low Newton.

As girls under 18 are not supposed to be in young offender institutions in the first place, this means that there has not been the same investment in their care as has been recently given to under-18 year-old boys. Consequently girls under 18 do not receive special attention appropriate to their age. However the Prison Service has issued a supplementary order to Prison Service Order 4950 Regimes for Prisoners under 18 Years Old, quoted extensively in section 5, which is Regimes for Young Women under 18 Years Old (with the same Order number).
Concerns expressed by the Inspectorate about girls in Prison Service custody

Since 1998 there have been relatively few published inspections of establishments holding under-18 year-old girls (ten inspections of eight institutions). Of these only three institutions held more than a handful of girls in the 15-17 age group. As a consequence it is difficult to get a picture of the quality of life of girls in prison from these reports. The inspection reports raise many issues of concern about bullying, visiting facilities, ‘bang-up’, food, clothes, physical dilapidation, health care and other matters that are addressed in detail in the next section covering the boys’ estate. However, it is impossible to discern from the reports whether these deficiencies affected the under-18s within the prison, and we have therefore not included them.

The following are matters the inspectors raised specifically about girls under-18 in Prison Service custody:

They shouldn’t be there but they are...

The main difficulty for girls under 18 at present is that, because they are floating in some kind of unofficial limbo within the Prison Service, they are not receiving the benefits of reforms for under-18s brought about by the Youth Justice Board.

Probably the clearest analysis of the consequences of girls’ unofficial presence in Prison Service accommodation comes from A Second Chance – A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service, published in November 2001. This writes about the results of the failure to fulfil the ministerial decision to move girls out:

The relatively small numbers of young people involved and the anticipated temporary nature of their presence within the prison system appeared to have resulted in little other planning for them being done by either the YJB or the Prison Service. For much of the year under review [2001], girls under 18 continued to be dispersed across the female estate and held in any establishment that held those under 21, with whom they shared an identical regime. There appeared to be little contact between the Operation Manager for women’s prisons or his staff and either the YJB or the Prison Service’s own Youth Offending Group. As a consequence, those working directly with these young people tended to find out what was expected of them in the new youth system only through indirect and informal channels. The 6-day YJB training course, required to be completed by all staff working with boys, was normally not on offer to them.

Even more seriously, no additional resources were available to establishments to assist them in meeting the planning and regime standards that were now required. Establishments for girls… could only move towards partially meeting these requirements by reducing provision for adult women and the 18-21 age group. However, even by doing this, the establishment fell very far short of planning and delivering the quality of education, training and other purposeful activity that was now required.
Since April 2001, when girls were supposed to have been phased out of the prison sector, there has only been one report of an institution holding girls under 18, in which the inspectors commented on the group of 12 under-18s they found there:

This is an extremely vulnerable and disturbed group of young women. It is impossible not to be struck by the profound personality disturbance and mental health problems that many presented and by the inappropriateness of prison, or indeed any other custodial placement, for them.61

Before that date the inspectors visited a women’s YOI holding juveniles in January 2001, when the Chief Inspector strongly criticised the fact that Regimes for Prisoners Under 18 Years Old (Prison Service Order 4950) did not appear to affect this group:

I am very concerned at the continued lack of implementation of the policy for the treatment and conditions of juveniles as detailed in PSO 4950. The YJB has not yet funded the custody of those awarded Detention and Training Orders (DTOs). There are no policies in place regarding Child Protection Procedures, nor is there any training in them for managers and staffs. Despite earlier recommendations, there are still no Social Workers to look after the interests of children. There is no continuity in the post of Manager of the Juvenile Unit. All these are things that would have been demanded by a Regulator, and all that I can do is recommend, which I do again, as strongly as I am able.62

**Mixing with older prisoners**

Since 1991 the UK Government has entered a reservation to article 37(c) of the UN Convention on the Rights of the Child which states: “…every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interests not to do so…”

The reservation states:

Where at any time there is a lack of suitable accommodation or adequate facilities for a particular individual in any institution in which young offenders are detained, or where the mixing of adults and children is deemed to be mutually beneficial, the United Kingdom reserves the right not to apply Article 37(c) in so far as those provisions require children who are detained to be accommodated separately from adults.

The Chief Inspector is clear that all under-18 year-olds, including girls, should not be held in Prison Service establishments. However, while girls are in the prison sector, he has expressed some ambivalence about the need to separate them from older women, which, since a High Court ruling in 1997 has been required for sentenced female young offenders.64 There seem to be two reasons for this. First, he was concerned that, as a result, sentenced 15-17 year-olds might be placed at a long distance from home, as he observed in this inspection:

A High Court had ruled in August 1997 that sentenced young women offenders must only be held in designated young offender accommodation except in certain circumstances. We were concerned that young women offenders who had been held on remand at Holloway and had received a sentence were not allowed to return to Holloway that evening because there was no accommodation designated for sentenced young offenders. Consequently they were often escorted to [this institution] from the other side of the country, straight from court. This would obviously have an unsettling effect on the young women and could be worse still if she had been received at court
from bail and later the same day found herself in an establishment over 200 miles from home. The Prison Service should accordingly review the arrangements for accommodating newly sentenced female young offenders.\(^4\)

Second, he was impressed on at least one occasion with the steadying influence that older women had on teenage girls:

Firstly the apparently cosmetic response of the Prison Service to the “Flood ruling” that sentenced young offenders should be held in designated young offender institutions. [The establishment] had only four cells designated for young offenders, which hardly warrants the description ‘Young Offender Institution’. Furthermore, there were often up to 20 sentenced young offenders at the establishment, which clearly meant that most were not being held in designated young offender accommodation as a matter of course, and were occasionally sharing cells with adult prisoners. We understand the practical difficulties of this situation and are aware that, often, young offenders enjoy a better regime because of this apparent breach of the law...

...An inspector was taken on an extended tour of the prison, an interesting experience, seeing the establishment through the eyes of a 17 year old and an older ‘mentor’ who she had sought out for herself. It was clear that the mentor was proving a steadying influence and somebody with whom to talk to about the preparations for her return home. It was made clear to us that the 17 year old’s continued presence at [the establishment] was something exceptional which had been negotiated by Prison Service Headquarters following an assessment of her needs and the request of her family for her to be close to home. We agreed with the decision and she seemed to be benefiting from the experience.

Young offenders at [the establishment] therefore shared their lives with older, sometimes much older, women. This is not the only women’s prison where this happens. In the group meetings we had with all the young female prisoners, they were adamant that they preferred this arrangement, feeling that being with older women stopped them from acting ‘like kids’, and because the older women looked after them, for example, intervening to stop any bullying. This arrangement requires staff to observe very closely the pattern of relationships that are being made. We felt this to be the case [here], that the young prisoners are of a certain level of maturity and that unsuitable adult prisoners are not placed there. We recommend the mixing of adult and young prisoners should be reassessed across the Prison Service.\(^5\)

The latter reason has also been cited by the Government as to why imprisoning female children and adults together might be in the child’s best interests. It is interesting to speculate why the steadying influence of older male prisoners on boys is not ever considered, although presumably there are potential mentors of equal responsibility in the adult male prison population. The assumption in the male sector seems to be that mentoring should be the task of male staff, not fellow prisoners. Arguably this discrepancy arises because of the commonly-held view that many women are in prison because of accidents of fate rather than because of their moral turpitude. This is undoubtedly true, but it is also true of many male prisoners.
Girls on remand

However the Chief Inspector is highly critical of the treatment of remanded girls under 18. Here the Flood ruling does not apply, and, because of the anomalous position of girls in Prison Service custody, unsentenced female children are ending up sharing accommodation with highly unsuitable adults, traumatising and criminalising the children:

…I must condemn, in the strongest terms that I can, the continued practice of holding unsentenced children with sentenced adults, only moving them to join their peers when they are themselves sentenced. The stupidity of putting impressionable children in dormitories with hardened criminals is beyond my comprehension. Common sense, never mind the law, should dictate that this is wholly inappropriate, and I am surprised that the Prison Service has not taken action to eliminate the practice, without attention having to be drawn to it in an inspection report…

Ironically, perhaps nearly 50% of those sentenced located on [the young offender wing] had spent longer periods...in an unsentenced status. A number spoke to inspectors about the bullying and, in several cases, of the criminal contamination they had experienced during these very uncertain periods. It was small wonder that on arrival on [this] wing, once sentenced, they spoke of their resentment at now being treated as ‘children’ and some rather gloried in the criminal sophistication that they had acquired during their remand period. Staff, on the other hand, spoke of the challenge they had to break through the veneer of coping mechanisms that the young women had necessarily developed as a mechanism for survival.

Almost without exception, staff throughout [the institution] thought that the treatment of those unsentenced and under 21 was wrong. One Officer described it as grotesque. The sentenced young women on [the wing] put it rather more colourfully, describing some of the criminal behaviour they had been inducted into whilst awaiting their trials, one adding that if the state had actually intended to give them a criminal education, it could not have tried harder. Many had at that time been in custody and away from their homes or communities for the first time. Inspectors spoke to a number of those currently unsentenced and found them, on the whole, unable to be as graphic about their experiences as had been the veterans of [the young offender wing]. A number were still obviously traumatised.

Protection from abuse

The main difference between Regimes for Prisoners Under 18 Years Old and Regimes for Young Women Under 18 Years Old is that greater emphasis is placed on the likelihood of a girl being the victim of sexual or physical abuse, and therefore needing good child protection services as well as higher sensitivity, for example when staff conduct body searches or censor mail.

The Inspectorate, however, found cause for deep concern about child protection measures in relation to abuse the girls had already experienced before entering the establishment (no doubt a major factor in them coming into custody):

Issues of past child abuse amongst its residents raised a high level of concern amongst staff in the Juvenile Unit. However, there was no evidence that Prison Service Child Protection Policies were fully operational at Unit level. We discovered that there were approximately two new disclosures of past abuse per week by girls in the unit. Our perusal of case files indicated that this was probably the tip of an iceberg. Only one case
had proceeded to referral through the local Area Child Protection Committee. However, the establishment’s Child Protection Policy had been drawn up but without the benefits of the national template which had not been issued by Prison Service Headquarters at the time of the inspection. The matter of Child Protection is of paramount importance and caring staff must have the benefits of a clear and unambiguous policy to support and guide their practice.

The social history of children and young people held in [the establishment] and other parts of the women’s estate, was such that a high incidence of Child Protection issues was predictable… The absence of absolute clarity in this area placed prisoners, staff and the Prison Service as a whole, at risk from the serious consequences of non-compliance with the universally accepted minimum standards of protection for children and young people held in the care of official bodies. At the time of the inspection, staff in the Juvenile Unit had not received specific training in child abuse awareness and child protection practice and this should be delivered as a matter of urgency.67

The Inspectorate was also concerned about the risk of harm from others that girls were facing because of negligence over child protection and vulnerability safeguards. The box below gives an example of the concern the inspectors are here describing:

…Even more seriously, two of the three children described were being accommodated in conditions so unsafe as to breach the basic requirements of child protection. The alarming thing was that none of the staff on duty at the time inspectors met with them seemed to be aware of this, either because they were staff relieving from other wings or the child had been on the wing for such a brief period.

There was no risk assessment procedure when allocating women to shared cells and dormitories. In particular where under 18 year olds were sharing with adults no consideration had been given to child protection issues. In the light of the deaths of Christopher Edwards at Chelmsford and of Saheed Mubarek at Feltham the continuing absence of effective risk assessment procedures for initial cell allocation in local prisons is a matter of the utmost concern.68

### Two girls at risk

A Dutch national, who had been in [the establishment] for two months, arriving just after her seventeenth birthday. This was her first visit to Britain, and she had got as far as the Eurostar terminal when she had been arrested for carrying a kilo or more of heroin for her 39-year-old former boyfriend. Her English was poor and she was in a very distressed state when an inspector spoke to her and clearly needed to talk. She had had five changes of wing during her time and was now in a room with three other older women where she was very unhappy because she said she was constantly being bullied.

She had had two consular visits, which were of some help, particularly because her English was so poor. She had had one visit from her father, which had left her very miserable because her father was ill. She could not phone home because she could not afford the phone cards. She was very frightened because she did not know what was going to happen to her or when her trial would be and just hoped she would see her father again soon.
A girl of Somali origin, now 17, who had arrived at [the establishment] when still 16 just over two months previously. She had had four changes of wing and was now held on B4, which apart from her, consisted entirely of convicted, mainly much older women serving sentences of up to nine years. Although she had been attending college outside, and had asked to be allowed to go to Education, this had not yet happened. She shared a room with two others, one of whom was frightening her a lot.

She badly wanted to move somewhere safer. Whilst talking to the Inspector she asked to speak to an Officer (who did not know her, as she was relieving from another wing) to report that the previous night this woman had started convulsing and the room was full of smells which made the girl sick and dizzy. The Officer’s view that this was the result of crack cocaine. She had asked staff three times to speak to a Samaritan or Listener, but this had never happened. She wanted to go to services on Fridays and also meet with the Imam. The wing listing however described her as being of no religion.

Mental health services, including protection from self-harm

Although statistically teenage girls are less likely to kill themselves than teenage boys, girls are more prone to attempt suicide and to pathological forms of self-harm such as arm cutting. Prison Service Order 5940 Regimes for Young Women Under 18 Years Old states that: “While following the requirements of the prison’s Suicide Awareness policy, prison staff working with young women who self harm must also be aware that self harm for many women is a means of gaining temporary relief from pain, anger and distress”. It is essential that mental health services be first rate in custodial settings for girls under 18. However the inspectors found, in one establishment at least, three major elements of this service to be worried about. First, the absence of vulnerability assessments for some girls:

It appeared that there had been no attempt at [the establishment] to make arrangements for unsentenced children that complied with Youth Justice Board standards in that… there was no evidence that the required vulnerability assessments were being carried out at the time of reception.

Second, an unmet need within the prison as a whole (which catered for adults as well as young offenders) for proper psychiatric care for seriously mentally ill patients:

The inpatient unit at the time of our inspection had been reduced to 27 beds. These comprised six for physically ill women and the remainder was for women with mental health problems. At the time of the inspection there were 25 patients. We reviewed the notes available with a view to identifying the optimal placement based on clinical need of these patients.

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<thead>
<tr>
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<th>Percentage</th>
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<tr>
<td>NHS secure psychiatric care</td>
<td>59%</td>
</tr>
<tr>
<td>Notes too poor to assess</td>
<td>18%</td>
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<tr>
<td>Notes missing</td>
<td>37%</td>
</tr>
<tr>
<td>Properly located in HCC [Health Care Centre]</td>
<td>23%</td>
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In short there were at least 15 inpatients in the Health Care Centre who were so ill that they should have been in an NHS facility as their health needs were far beyond the capacity of the staff on the ward.  

Inspectors met all twelve [under-18 year-olds] individually and as a group… Of the twelve girls, three were at very serious risk of self-harm and subject to very close monitoring… four of those under 18 whose mental state was such that they could not tolerate taking part in regular activity off the wing… Staff told inspectors bluntly, but with sadness, that their overriding priority was to prevent any further suicides. This made their work very stressful, and it was clear that opening a cell door to find some form of serious self-harm, such as a girl who had seriously cut herself or was almost unconscious with a ligature, was for some an almost daily experience… The support to staff from mental health specialist seemed wholly inadequate. It was of concern to inspectors that the only response that staff felt there was to some forms of disturbance was cellular confinement, either as a result of adjudication or being placed on the basic level of the incentives and earned privileges scheme. Thus, one 17-year-old girl who was just completing the two-month custodial element of a four-month Detention and Training Order had spent almost the whole period, i.e. almost 60 days, in such confinement. There was total agreement between the YOT worker and the wing staff that this custodial order had been quite inappropriate to her needs and disruptive of the care package already in place in the community.  

Third, the inspectors noted an over-reliance on medication for the under-18s:

Here again the poor liaison with medical staff was a major concern, because wing staff were striving to convince girls that there were alternatives to psychotropic drugs and sleeping medication (wing staff were finding that hot chocolate, administered in a caring and supportive way could be an effective alternative). Medical staff, however, continued to prescribe these drugs, often in response to threats of self-harm. Had they entered into discussion with wing staff, an acceptable alternative therapeutic strategy might have evolved which left the young woman safe but at the same time began to wean her away from a lifetime's dependency on medication. Inspectors observed a group of 16 (i.e. 50% of the wing population) leave for the weekly clinic. 13 returned with medication having been prescribed for them.  

In another institution, holding 18 girls under 18, the inspectors were alarmed at the establishment’s failure to recruit social workers and a psychologist to work with the children, together with the provision of therapeutic services, as they had recommended in a previous report:  

No Social Workers were appointed… This was a very serious departure from required standards for the treatment of juveniles subjected to Detention and Training Orders. This resulted in the diversion of Probation Officer hours to address unmet needs with juveniles and the consequential reduction of key services to other parts of the establishment. In addition, the absence of Youth Offending Team social workers deprived prison staff in the Juvenile Unit of an essential and important element of inter-agency support and guidance which created additional and stressful burdens for them. In addition the absence of psychological services compounds the reduced level of service to these children…
No funding for specific therapeutic programmes was made to meet the identified needs of juveniles and there was no provision of a dedicated psychiatrist for the Juvenile and Young Offender Unit.⁷⁵

**Education and rehabilitation**

*A Second Chance* makes clear that, while education provision in many women's prisons was generally good, the inspectors had major concerns about education provision for under-18s under the detention and training order. The requirement is that the training plan should be tailored to the individual, involve education staff from the child’s community and should focus on the child’s rehabilitation and integration into society, but this was not being achieved. This was particularly difficult in relation to girls on remand and girls on short sentences. Because there are relatively few female prisons, girls are more likely to be locked up at a distance from their homes. Current figures show that girls are on average placed 60 miles from home, as opposed to boys at an average of 41 miles; 48% of girls are over 50 miles from home compared to 28% of boys.⁷⁶ A recent inspection commented:

As throughout the entire under 18-women prisoner estate, custody plans were not drawn up for the unsentenced, and contract with YOT workers and other community agencies was limited. There was in several cases an almost complete lack of background information available to Wing staff. This was a serious deficiency, as YJB standards require the unsentenced to have available to them a regime of equivalent quality as that enjoyed by those who are sentenced. The absence of such arrangements was particularly worrying in the case of one very distressed and disturbed girl who had already been on remand at [the establishment] for three months – this was longer than the stay of many of those who were sentenced – and who was likely to remain in this status for several months to come.⁷⁷

The inspectors were also concerned that highly vulnerable girls were not being helped on their release, for example in this institution:

Resettlement issues featured prominently in review and case conferences as well as in the life of the wing generally. With an increasing number of short sentences, the anxieties in relation to returning to unchanged circumstances in the community were very considerable and was a theme of many of the discussions between staff and young women. Staff worried about the over dependency of young women on them as they approached discharge, and were clearly very anxious during this inspection about the ability of a very vulnerable and depressed young woman to cope when she left the wing four days after the inspection... Accommodation on discharge was a major problem, and staff spent much time liaising with YOT workers about this.⁷⁸

**Recommendations**

- That the Government makes it a priority to move all girls under-18 out of Prison Service custody.
- That steps should be taken to ensure that, as a priority, the mental health needs of all under-18 year-old girls are both assessed before courts consider a custodial sentence, and that these needs are fully met in any subsequent sentence.
5. Children remanded to custody

Children who are remanded to prison, awaiting either trial or sentence, are probably both the most vulnerable and the most neglected group in Prison Service custody. The 1991 Criminal Justice Act provided for the eventual abolition of prison remands for children under 17, but since then their numbers have risen.\textsuperscript{79} Certainly over the last year, the latest available figures, for the months of May 2001 and May 2002, show a substantial increase of 33 per cent for remanded boys and of 16 per cent for remanded girls.\textsuperscript{80} This increase may be due to the Government’s decision to partially implement section 130 of the Criminal Justice and Police Act 2001 in April 2002, which empowered magistrates to remand children to custody who commit non-serious offences while on bail.

In December 2000 the Chief Inspector of Prisons published a thematic review on unsentenced prisoners: \textit{Unjust Deserts}. Much of this related to adult prisoners, though there was a discrete section on what is known about young people on remand. This concluded that the statistics:

\begin{quote}
…describe a group of young people in which a significant minority are even more isolated, victimised and disturbed than adults. Many of them have experienced significant trauma and disruption in their domestic lives and their schooling, and are without the personal and social support they need to overcome their difficulties and begin to manage their lives and relationships. Many are mentally, emotionally and morally immature and have developed criminal lifestyles which include high levels of drug and alcohol misuse. Before any work can be done to sensitle them to the needs of others and the impact of their offending on victims, their own needs as maturing adolescents for care, support and direction have to be met.\textsuperscript{81}
\end{quote}
There are at least four major questions to be considered in relation to remanded children:

1. **Need they be locked up in the first place?**

Children can be refused bail for much the same reasons as adults charged with offences (together with an extra reason that this is for “their own interests”), but if they are under 17 they will be remanded to local authority accommodation which could mean a children’s home, foster care, bail hostel or even return to family. However courts can order children of 12 and over to be remanded to custody if certain conditions are met. Until recently these were quite stringent – that the child has been charged with/convicted of a very grave crime or has a history of absconding from local authority accommodation and has been charged with/convicted of an offence alleged to have been committed when so remanded, and in either case the court believes that a custodial remand is necessary to protect the public from serious harm. However in April 2002 the Government implemented section 130 of the Criminal Justice and Police Act 2001 for ten areas, extending it to the whole country in September 2002. This section significantly weakens the “secure remand” conditions, in that protection of the public from serious harm is no longer an essential prerequisite. Courts can now also remand children to be imprisoned “to prevent the commission… of imprisonable offences” if there is evidence the child has “a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation.” Thus courts are now empowered to lock up unconvicted children who are petty, albeit repeat, offenders.

The Crime and Disorder Act 1998 required local authorities to provide bail support schemes. Youth Offending Teams must work closely with children who have been remanded to custody, ensuring that they are visited within five days, investigating the possibility of bail and keeping their remand under review throughout their period in custody, in order to keep secure remands to a minimum.

Until recently voluntary organisations have run schemes to help children remanded to penal custody – the Howard League’s “Troubleshooter Project” in Feltham and The Children’s Society’s “National Remand Rescue Initiative” (this changed its name to “National Remand Review Initiative” at the request of the main funding agency, the Youth Justice Board). These initiatives arose because of cases where children had been illegally remanded due to inadequate representation in court, and also because of evidence of discrimination in remanding practice. For example, some courts were shown to be more disposed to lock up unsentenced children than others and some local authorities had much much better bail support provision than others. In addition The Children’s Society’s experience was that black children have “consistently (and in many cases very substantially) been disproportionately over-represented amongst the penal remand population” – comprising a quarter of all the remands seen by the Initiative, and rising to just under 50 per cent in the London region.

Moreover, The Children’s Society’s Initiative, which assisted over 3,000 children remanded to custody in the period December 1999 to November 2001, found that one in ten of these children were not convicted of an offence and a further 30 per cent, though convicted, did not receive a custodial sentence; The Children’s Society also succeeded in “rescuing” over 30 per cent of the children from penal custody. Around half the children seen had never been in custody before.
In 2001 the Inspectorate stressed the need for consistent remand advocacy:

On the Young Adult Offender side of the establishment, which housed sentenced young adults, trained Legal Aid Officers were available but were rarely needed or used by the young prisoners. We recommend that these resources be transferred to the juvenile remand unit and that the staff receive training specifically related to bail issues for children on remand and serving Detention and Training Orders. We were told that plans were going ahead to allow access to The Children’s Society. This approach is commendable but the establishment needs to realize this support service will not completely fill the gap and That Children’s Society staff will need support to fulfil their role. 

All this strongly suggests that, far from there being insufficient places to remand children, there are too many secure remands. The Children’s Society Initiative was disbanded in June 2002 by the Youth Justice Board on the grounds that prison-based Youth Offending Teams (YOTs) would by then be in place to take over this work. However it is far from clear whether all young offender institutions have such teams, and, in addition, whether the YOTs would have the capacity to be energetic on the secure remand front in prisons, given they have responsibility for liaison and planning for young people on remand as well. In addition to the new pressures caused by implementing section 130, the special pump-priming grant for local bail support services has recently ended which means that YOTs and social services will have to fund these services out of core budgets. This may lead to a reduced range of non-custodial alternatives for children who fall within the criteria for a secure remand. Certainly there is not an impressive record for in-prison bail services for adult prisoners. The Chief Inspector noted in Just Deserts that, though Bail Information Officers or legal officers always saw prisoners within seven days of arrival:

…only one third of Governors [who answered the Inspectorate’s survey] were able to provide figures for the number of remand prisoners who achieved bail as a result of their interventions, and these varied widely from 2% to 80%, raising serious concerns about the accuracy of the figures which were available to Governors.

While the inspectors may be right to doubt the accuracy of these figures, it is equally possible that the figures are correct and the wide variation reflects the varying degrees of energy, interest and competence offered by these unsupervised advocacy services. Anyone involved in secure remands knows how time-consuming it can be to organize a viable non-custodial alternative.

2. Need they be remanded to Prison Service accommodation?

This report is examining the experiences of children in Prison Service custody, but it must be noted that there has been a long-standing commitment since 1991 to remand all children under the age of 17 to secure accommodation. This objective was never achieved and as numbers grow it becomes less likely. At present 15 and 16 year-old girls are remanded to secure accommodation, but a 15 or 16 year-old boy will be sent to a secure unit only if the court is “of opinion, that, by reason of his physical or emotional immaturity or a propensity of his to harm himself, it would be undesirable for him to be remanded to a remand centre or prison” and “it has been notified that secure accommodation is available to him”.

That “and” provides a killer loophole. What the legislation means is that as the numbers of 15 and 16 year-old boys remanded to custody rise, so available secure accommodation places
decreases and so the definition of boys’ “vulnerability” changes. For example, in February 2001 386 locked remands were ordered but in May 2002 there were 200 more, 589. It is therefore likely that many of the boys who were remanded to a young offender institution in May 2002 would have been deemed by the courts to be too “vulnerable” to be sent to one had they appeared before the court a year earlier. Certainly there are insufficient places in secure accommodation – currently the Youth Justice Board reserves 260 out of around 460 available secure unit places (and even these places cannot be ringfenced for 15 and 16 year-old boys on a secure remand order because younger children and section 53s, those convicted of grave crimes, must also be placed in secure accommodation).

In addition, of course, there can be no justification for treating 17 year-olds as adults for the purposes of remand: plainly this age group should also be remanded to secure accommodation if they are refused bail, and particularly if they are deemed to be vulnerable.

Where should children on “secure remands” be placed? Our first observation is that the numbers of secure remands should be radically reduced by more resources being put into bail support schemes. The courts’ powers to order a secure remand should also be diminished. Indeed, there is an argument in favour of courts having no powers to order secure remands, given their predilection for doing so. Rather courts should only be able to make a recommendation that a child be locked up on remand in order to protect the public from serious harm, but that the final decision would be made by a central government placing agency. This, hopefully, would reduce the many remands and current geographical lottery that operates at present.

But if there are fewer remanded children then it seems more likely that they must be placed with other locked-up children, because having a few remand-only centres for relatively few children would either mean the centres were too small to be deemed economical or that too many remanded children would be placed too far from home. However the Inspectorate has identified problems in locking up children on secure remands alongside other locked-up children, given the remanded group are not expected to be incarcerated for long and have not been convicted or sentenced to custody.

Nonetheless we believe that where children have to be remanded, they should be locked up with the other children in custody. The fact that they have not been found guilty or been sentenced should not be relevant, since all children should have the same educational opportunities and be treated with the same degree of respect, humanity and kindness regardless of their crime. Their, hopefully, speedy passage through the locked institution is more problematic but we would argue that this should be true of most other locked-up children. No child should be kept locked up longer than is necessary for public safety, so most should transfer into community-based alternatives within weeks or days. Our vision is that locked institutions should not be small self-contained worlds, albeit with more active liaison with local YOTs, but should be an integrated part of local provision for troubled children – with, for example, the teachers and other professionals working with the same children when they are locked up and when they are not – so that children can be taken out of locked provision as soon as they are safe to let out.

3. Need they be remanded for as long as they are?

The Government has pledged to speed up children’s progress, and particularly to fast-track “persistent young offenders” (those with three or more convictions who have been arrested within three years of the last conviction) through courts by halving the average time spent
between arrest and sentence. The Government stated in its July 2002 *Justice for All* White Paper that it has more than met this target, reducing the average number of days for this group of children from 142 to 63 days.\(^{89}\)

Between January 2001 and June 2002 the average length of a secure remand was 31 days, with significant monthly variations but no discernable trend upwards or downwards. However the notional four weeks for a secure remand masks the fact that individual children may be remanded for much longer than that, sometimes for many months.

For example, the inspectors noted that the periods children spent on remand were underestimated by the staff in at least one institution:

The induction programme [for remanded children] started the next day and consisted of an extended talk describing how the establishment operated and answering any questions. A compact outlining the standards of behaviour was explained and signed by the young prisoners. Staff told us there was little point in doing more as most would not return from their next court appearance. An analysis of the figures of trainees held on remand was completed from the period beginning 27th March to the date of our inspection [15-19 May 2000]. We found that only 17% of young prisoners failed to return from court in the first week, 8% in the next week leaving 75% remaining for more than a fortnight and 70% were still at [the YOI] at the time of our visit.\(^{90}\)

Children waiting in lock-ups for their court hearing should not be left to languish. Their locked placement should be under continual review and plans for their education and care should be drawn up in a way which allows the plan to be transferred to an open placement or return home.

4. **How should they be treated in the custodial setting?**

Governors are supposed to accommodate sentenced and unsentenced children separately.\(^{91}\) This is more or less in line with international human rights law, although a further distinction needs to be made between unconvicted children, which international law distinguishes, and unsentenced children. Unconvicted children, like their adult counterparts, are entitled to be presumed innocent and should therefore perhaps be allowed extra privileges. But the Chief Inspector makes the point that it was not entirely logical to distinguish between unconvicted and unsentenced children in this way, since unsentenced children, though guilty of an offence, often do not receive a custodial sentence.

The Young Offender Institution Rules do not mention remanded children. However PSO 4950 *Regimes for Prisoners Under 18 Years Old* reminds Governors of their duties towards this group of children and also requires them to: “provide the opportunity and encourage the unconvicted to participate in purposeful regime activities. Those under school leaving age must be provided with a minimum of 15 hours education per week” (Para. 5.2).

The irony is that, far from receiving better treatment, remanded children are often just warehoused and denied access to the activities and privileges given to the sentenced children. Certainly this was the overall finding in of *A Second Chance – A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service*, which observed about remanded children:

The system as a whole failed to recognise this group as being one of the most vulnerable and difficult to provide for. These young people were arriving, often off the
streets, traumatised by events before and after their arrest. For some it was their first time away from home. They were easily exposed to bullying and were particularly at risk of self-harm…

Unsentenced young people were being offered little or no purposeful activity and remained locked in their cells for much of the day. With the exception of those who were still of compulsory school age, there was often no access to education or other training. Even when there was such access, a significant number of young people reported feeling unsafe in the classrooms and were thus unlikely to benefit from the education or training on offer…

Educational or other assessments [of unsentenced male juveniles] were rarely carried out; individual programmes were not being planned and agreed as required by YJB Standards.}

A Second Chance particularly singled out the treatment of remanded girls, (see page 35 of our report). Because only 17 year-old girls can be remanded to prison, there are relatively few at any given time making them liable to neglect. In addition girls on remand are liable to be held with adult prisoners, unlike sentenced 17 year-olds. A Second Chance described the plight of three remanded girls:

Two of the three girls were frightened, bullied and at serious risk. In spite of the fact that all three had been in custody for eight weeks or more, none of them were engaged in any purposeful activity. Inspectors were greatly concerned that, even at the end of the year under review, there appeared still to be no plans to make acceptable arrangements for the proper care and treatment of 17 year old girls on remand held by the Prison Service.

Concerns were also expressed in the inspection report on the same establishment:

It appeared that there had been no attempt at [the establishment] to make arrangements for unsentenced children that complied with Youth Justice Board standards in that:

- There were no post court reports and none of the other prescribed documentation, or certainly not in a way that was accessible to wing staff.
- There was no evidence that the required vulnerability assessments were being carried out at the time of reception.
- There was no apparent ongoing liaison between prison staff and YOT workers to agree a programme of activity whilst on remand.
- There appeared to be no effort to provide opportunities for purposeful activity comparable to that available to this age group when sentenced.

In two units for 15-17 year-old remanded boys, however, the inspectors noted that efforts were now being made to provide them with purposeful activities:

[One] unit held under 18s awaiting trial. Although it, too, had to be run on the same lines as [the other unit for sentenced children], this was not yet achieved. However, staff were keen to learn and were beginning to understand how to apply the skills required. For years the remand population within the Prison Service has been a largely forgotten group. [The] staff were therefore being required to make a considerable cultural change
in their approach to this population and to accept that young remand prisoners should receive exactly the same regime and purposeful activity as those who were sentenced.95

Remanded young prisoners present a particular challenge as far as involving them in activities is concerned because there are few compulsory elements in their regime. This is where the overall ethos of an establishment is vital in helping to motivate them. We were generally pleased with the developing ethos that was making it clear that all young people were expected to be constructively active. Those with whom we spoke seemed generally to enjoy education classes… and we were pleased that the majority also took part in PE. However, managers clearly understood that there was a pressing need to expand the range of constructive activities available.96

The overall view of the Inspectorate was that there was little value in making a distinction between remanded and sentenced prisoners, since the important thing was that:

- each prisoner, regardless of stage of legal process, should be treated according to his/her needs with equal consideration, be they old or young, male or female, convicted or unconvicted, and without presumption of guilt or innocence,
- all prisoners should be allowed access to as full a regime as possible compatible with their safety and security.

The Chief Inspector’s thematic review commented:

The legitimate concerns expressed by some Governors about the dangers of losing sight of the special status and different needs [of remanded prisoners] can be overcome providing that the Prison Service operates according to the principles of a healthy prison which provides a safe environment for all prisoners, treats them with respect as human beings, provides a full and purposeful regime and meets their resettlement needs, regardless of status.

Recommendations

- Courts’ powers to order secure remands of children should be very limited, to ensure that only those who otherwise might cause others serious harm are locked up, for the minimum time.
- All children remanded to custody should have their remand reviewed by those responsible for their care at frequent intervals (at least weekly), irrespective of when the trial or sentencing is to take place, and arrangements should be in place to secure their release as soon as they are judged not to pose a risk to others.
- Children who are remanded to custody should be entitled to the same rights and protection as other children who are locked up.
6. Recent experiences of boys under 18 in young offender institutions

Health

Boys in young offender institutions are not a healthy group, not only as regards mental health (see below) but also with a higher than average tendency to suffer chronic physical illnesses such as asthma and injuries. This is hardly surprising given they are more likely to come from the lower socio-economic groups that carry poorer health outcomes and to smoke, abuse alcohol or illegal drugs and suffer social exclusion; they are also presumably more likely to be involved in fights leading to injury and physically risky enterprises, such as driving without a licence. At the same time it seems that boys in prison custody are prone to describe themselves as healthier and fitter than they actually are, perhaps because of the need to project a tough image or perhaps because they want to avoid the health centre.97

As children in prison custody are held by the Home Office to be excluded from the protection of the Children Act 198998, and from their education rights under successive education legislation, so under the Prison Act 1952 are they also excluded from full health rights under the NHS, since the Home Secretary and the Prison Service are responsible for all powers and duties in relation to the care of prisoners.98 In particular primary health care is provided within the institution, though for obvious reasons the NHS assumes responsibility for operations and other complex ‘secondary’ and ‘tertiary’ treatment.
The Chief Inspector of Prisons recommended in a 1996 discussion document *Patients or Prisoner?* that prison health care should transfer to the NHS. A joint NHS/Prison Service Working Group was established to consider this recommendation. The Working Group recognised that there are many weaknesses in the Prison Service’s care, and that its central aim “to provide prisoner with access to the same range and quality of services as the general public receives from the National Health Service” was not being met. Nonetheless it recommended that prison health services be provided jointly by the NHS and Prison Service on a ‘mixed economy model’ for the foreseeable future. As a result each prison and health authority have had to draw up and, from April 2001, start to implement a plan to improve the health of their population. The success of this partnership will be reviewed at the end of 2004.

The primary health care of all prisoners remains the responsibility of the Prison Service, which means that the medical care of the children may be institutionalised, with a number of attendant dangers. For example, the medical staff may dismiss sick children as malingerers, the health care provided may be perfunctory or inappropriate, in-patient care may be punitively restrictive (particularly for children with mental health problems), sick children may refrain from seeking health care or alternatively the health centre may be sought as a safe refuge from bullies by healthy children. None of this can be described as good health care yet examples of all have been noted in recent Inspectorate reports.

The internationally agreed rules for the care of children deprived of their liberty state that they should wherever possible have health care within the community, to minimise stigmatisation. While it is probably necessary for large establishments to have their own health centres and medical personnel, there is no real reason – save penal history – why these should not be a part of the NHS, just as is the case for secure training centres and secure units. Such a step would bring an extra bonus of providing the joint NHS/Prison Service task group with an alternative model to their current experimental ‘mixed economy’ project.

**Concerns expressed by the children**

“When you go to health care they just say you’re fine”

“I had a cold sore on my face and the doctor gave me cream which is not to be put on your face”

“I receive medication but every now and then I don’t get it and no-one has any explanation”

“I am noted as asthmatic, but they wouldn’t give me an inhaler”

The juveniles told the inspectors that: “the Health Care Centre was appalling. They would be told to “F Off” at the centre. They felt that the health care officers were not interested in their health and well-being and would let them do gym with their injuries. The dentist would come in and see everyone who had a complaint in one day.”
“Headache = two paracetemol, cut leg = two paracetemol, leg hanging off = two paracetemol, and you will be all right in the morning!”

“The staff at the health care centre prescribe nothing but paracetemol for every illness. They all tell you to come back we’re busy reading The Sun!”

Concerns expressed by the Inspectorate in recent reports

The Inspectorate always includes a person with professional medical qualifications on its team. A number of its recommendations to the institutions’ health care teams are about matters of clinical housekeeping, such as the storage or disposal of medicines or record-keeping, which are not addressed in this report. The following observations are about deficiencies that directly affect the health of the children.

Failure to provide ‘NHS-equivalent’ health care

The health care centre needed separate waiting rooms for juveniles and young offenders, with a dining area and shower facilities available. There was no space to run specialist clinics, planned activities or groups and there was insufficient office space for the nursing staff and no administration office. There were insufficient consulting rooms for visiting specialists, no disabled facilities, no separate association rooms for juveniles and young people and no external recreational area. Consequently the health care centre did not offer care equivalent to NHS standards and was not conducive to providing a therapeutic health care regime to meet the needs of the young people.

We were concerned that sick youngsters were still ending up in [the establishment] rather than the NHS either because court assessment schemes were not identifying them or because no suitable beds were available in the NHS.

For some years medical input had been from a [geographical area] NHS general practice and all doctors were certificated in general practice and widely experienced in NHS primary care. Following a competitive tendering exercise this arrangement had terminated and the full time doctor giving cover during the day was now provided by an agency and out of hours cover was by a local practice contracted via the agency. Although the full time doctor held a certificate of equivalent experience having worked for five years in primary care in another country he had never worked in NHS primary care and had not undergone the regular continuing training in primary care that is the norm among NHS GPs. He had until his arrival at [this institution] no knowledge of NHS services in [the city].

No doctor was on duty in the prison after 16.30. Many receptions arrive after this time and the absence of a doctor is unsafe and is in breach of health care standard 1b.

At night there was one nurse on duty who, if faced with an emergency had to call for assistance from the main prison. There was no protocol for emergency admissions at night.

After 7pm and on Sundays no doctor was available to attend patients at [the] HMYOI. As part of a pilot scheme nursing staff assessed any health problems posed by trainees and, if they considered they needed advice, then, by special arrangement, they phoned the nurse advice service at NHS Direct. If the nursing consensus was that an immediate medical assessment was needed then the trainee was sent to A&E at [the
nearby town]. Assessment from a doctor on the following day if agreed as appropriate was always arranged. We were not convinced of the safety or the propriety of these arrangements. Besides concerns about the well-being of trainees, some of whom will have come to [the establishment] direct from the streets with unknown health and substance misuse histories, we doubt the propriety of using NHS resources in the local A&E department to deliver primary medical care to trainees in order to save the Prison Service money.105

Boards of Visitors have echoed the concerns expressed by the Inspectorate. In one annual report it was noted:

The Board has felt for some time that the healthcare facilities were poor almost to the state of non-existence…106

Poor treatment of in-patients

In-patients had a limited regime. Patients were unlocked at the most for two hours in the morning, two hours in the afternoon and two in the evening. This did not meet Prison Service Standards for juveniles. The health care standards require six hours purposeful activity per day; education was available twice a week as was the gymnasium. Outdoor exercise was offered daily but staffing levels meant that those who did not want to go out have to have a further period locked in.107

The in-patient area was very much less satisfactory and had not originally been built for health care. The day area was inadequate with no room that could accommodate all patients. Consequently, the main corridor was used for dining out and for association. The numerous tables and chairs in this corridor would prevent rapid evacuation in case of fire. Doors to patients’ rooms were too narrow to admit a stretcher or a wheelchair. Windows in some patients’ rooms had been adapted to reduce the risk of suicide attempts but the consequence of this was that the rooms were very dark and had no ventilation. They were unsuitable for occupation and this should have been apparent to Governors during their visits to the Health Care Centre. We were very troubled to hear that replacement windows had been available in the Works Department since June 1999 but the only promise for installation had been ‘some time this year.’ This seemed to us to show scant regard for the needs of sick young people. Unsurprisingly, since it had not been designed for health care, the in-patient area was seriously inadequate. The original in-patient area (now offices) would have been much better but had been regarded as too small.

We have commented above on the poor conditions in the in-patient unit. The daily life of in-patients was very restricted. Education or the Gymnasium was available for an hour most weekday mornings from 9-10 am and there was association in the evening from 6-8 pm. Outdoor exercise was only available if a majority of patients wanted this and those not wanting exercise had to be locked in. Much of the remaining time patients would be unlocked in ones or twos for showering and cleaning or to attend the daily ward round. Patients were locked in from 8 pm to 8 am. This regime failed to meet the requirements of the Health Care Standards and was far from providing the ten hours unlock required for juveniles. The manager told us that he had not been asked whether he would need additional staff to meet this new requirement but had been given one additional nurse to cover juvenile receptions.108
The lack of a recreation area and limited space had led to a regime that could only meet the basic physical needs of patients. Individual rooms needed decoration and the lack of a stimulating environment lead to boredom and apathy. Patients related that they averaged 1½ hours per day out of their rooms and of the four inpatients only three had exercise in the fresh air lasting no more than 30 minutes during a ten day period.

Inpatients were in theory unlocked for some 7.5 hours/day. However, we observed one young person who was unlocked for only 30 minutes between 9am and 4.30pm… These arrangements did not meet the requirements of health care standard 2.2 and 4.2 of twelve hours unlocked and 6 hours in ‘planned activity’.109

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**Sick children believed to be well and well children treated as sick**

The managers told the inspectors that “only 10-20% of the young prisoners who reported sick were genuinely ill and they were usually trying to avoid education or work.”

However, we noted that occupancy was rarely above 50%, that a significant number of admissions were ordered by Governor grades and not because 24 hour health care was needed and that the in-patient facility was used as a refuge for those who found it difficult to manage on general location.111

We were concerned to learn that some admissions to health care beds were on the orders of governors rather than determined by health care staff. Standing Order 13 para 30 states that admission to the health care centre should be at ‘the sole discretion of the Managing Medical Officer or medical or nursing staff acting on his or her behalf.’ By way of example, we found one young person had been an inpatient for four weeks. He told us that he had been admitted because he couldn’t control his temper with the others on his wing. His care plan identified no health concerns or health input. Three weeks after he was admitted a mental health assessment was undertaken by a child/ forensic psychiatrist, who was also unable to identify any mental health needs.112

**Health: What their rights are**

**International law**

**UN Convention on the Rights of the Child, Article 24**

States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

**UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 49-52 and 55**

Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is
located, in order to prevent stigmatisation of the juvenile and promote self-respect and integration into the community.

Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

…Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testers in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

In this country

*Prison Act 1952, Sections 1 and 4*

All powers and jurisdiction in relation to prisons and prisoners which before the commencement of the Prison Act 1877 were exercisable by any other authority shall, subject to the provisions of this Act, be exercisable by the Secretary of State.

The Secretary of State shall have the general superintendence of prisons and shall make the contracts and do the other acts necessary for the maintenance of prisons and the maintenance of prisoners.

*Young Offender Institution Rules 2000, Rules 27 and 28*

The medical officer of a young offender institution shall have the care of the health, mental and physical, of the inmates of that institution.

Every request by an inmate to see the medical officer shall be recorded by the officer to whom it is made and promptly passed on to the medical officer.

The medical officer may consult a medical practitioner… such a practitioner may work within the prison under the general supervision of the medical officer.

The medical officer or medical practitioner shall report to the governor on the case of any inmate whose health is likely to be injuriously affected by continued detention or any conditions of detention. The governor shall send the report to the Secretary of State without delay, together with his own recommendations…

*Regimes for Prisoners Under 18 Years Old, Section 6.5*

HEALTHCARE

OBJECTIVE: To provide the young person with access to health care based on a needs assessment
undertaken jointly with NHS and annually reviewed. Quality health and health promotion services will provide assessment, treatment and management by staff with relevant qualifications, appropriate training and experience of the health and social care of young people.

**Mandatory requirements:**
(i) Establishments must follow the policies and practices set out in the Service’s Health Care Standards.

**Health: What we recommend their rights should be**

- The National Health Service shall have full responsibility for the health care of all children in custody, including primary care within the establishment.
- Every child shall have a medical examination on reception, and medical assessments to be subsequently included as part of periodic reviews.
- Every child who complains of being ill or who shows symptoms of physical or mental illness shall be examined promptly by a medical officer.
- Every child should have immediate access within the establishment to trained staff and adequate medical facilities for preventive health care and the handling of medical emergencies or short-term minor illnesses or injuries.
- Where sick children are confined to bed within the establishment they shall be accommodated in pleasant rooms and with the same access to fresh air, free association, education and recreation as they would have if well, limited only by medical requirements.
- Every child with long-term health problems shall, wherever possible, be treated by medical services within the community.

**Mental Health**

Central government documents mention from time to time a depressing statistic, which is that “95% of the prison population under the age of 21 have a diagnosable mental illness, or substance abuse problem, or both.” Other statistics are provided elsewhere which give lower proportions of mental illness and substance abuse, though always far higher than the norm and with high levels of undiagnosed mental disturbance.

Should it be surprising that so many young prisoners are mentally disturbed? Research, after all, consistently describes these young people as being self-destructive, impulsive and antisocial, with chaotic family backgrounds and catastrophic educational careers. The factors that lead to prison may also lead to mental illness and substance abuse. On top of that, the experience of imprisonment is itself likely to cause depression, aggression, paranoia and other mental disturbances.

The mental health of child prisoners under the age of 18 is not precisely quantified, though the proportion must be high. One important distinction must be made about the under-18s, which is that “diagnosable mental illnesses” generally do not start to be visible to mental health clinicians until the very late teens and early twenties. Children of fifteen, sixteen and seventeen may be mentally ill, but the “florid symptoms” enabling an easy clinical diagnosis are not evident. What are evident are “emotional and behavioural difficulties” manifesting themselves in self-harm, uncontrolled anger, violence, abilities to concentrate or foresee the consequences of actions or to form relationships. Self-harm, violence and special educational needs are discussed below as separate matters, but are also part of the overall mental ill-health of these young people.
The difficulties in mental health are not unique to the prison sector. Secure units are also failing to meet the mental health needs of their children. Child and adolescent mental health services in this country are under-resourced and thinly stretched. These services are particularly poor at addressing the problems of violent and delinquent adolescents: not surprisingly residential psychiatric units dealing with suicidally depressed children and children with eating disorders are unlikely to welcome highly disruptive and aggressive children. And because of the difficulties of making clear diagnoses for this age group it is relatively easy for the mental health world to abdicate responsibility for them. The Prison Service is taking the mentally ill children that nobody else wants.

However it is not the Prison Service that is primarily failing to meet the mental health needs of imprisoned children. Article 39 of the Convention on the Rights of the Child, on rehabilitation, is included in the relevant international rights in this section. Many, if not most, children in locked established have suffered neglect, ill treatment and violence, but few have received the rehabilitative treatment that is their right.

If children are locked up only as a last resort, and 95% of these children have some kind of mental health/substance abuse problem, then it follows that all reasonable attempts should have been made to meet their mental health needs before a custodial sentence was passed. Nothing could be further from the truth. There are long waiting lists for adolescent mental health services such as psychotherapy and residential psychiatric units; very few candidates for custody will have been seen, let alone treated, by a mental health specialist. The Audit Commission’s 1999 report Children in Mind found from that about 10% trusts could not offer a CAMHS (Child and Adolescent Mental Health Service) appointment within six months and over a third felt that they could not respond effectively to a young person presenting in a crisis. Once assessed, treatment and therapy is not readily available to adolescents in many areas – spending per head varied by a factor of seven between health authorities, unrelated to any measure of need in the area.

Similarly, despite “emotional and behavioural difficulties” being an identified special educational need, behaviourally difficult children in school are generally treated through the disciplinary route, that is to say suspended and then excluded, rather than receiving the assessment and statement provision of special education. And cruellest of all, those children who do flourish under the personal kindness and focused education programmes of the better young offender institutions, could in the most cases have been offered the same opportunities in an open therapeutic institution, but few of these now exist in England and Wales.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which visited UK prisons, including a notorious young offender institution (YOI), in February 2001 commented that although the YOI was well resourced with mental health specialists, none of the psychiatrists had been trained in child and adolescent psychiatry. The Government’s formal response was:

“There are very few child and adolescent psychiatrists in England. [The establishment] have asked the local NHS Mental Health Trust to try to obtain one, but to date they have been unsuccessful.”
Concerns expressed by the Inspectorate in recent reports

Because the Inspectorate is taking a snapshot look at a whole establishment, rather than closely examining the lives of individual children inside it, it is unlikely to be able to form a clear picture about the mental health treatment provided – a difficult thing to monitor in any event. Moreover in establishments which had units of “young offenders” (18 to 21s) and “juveniles” (under-18s) it was not always clear which age group was involved in the comments quoted below because the health centre was sometimes dealing with both groups together. This is, of course, an additional matter of concern. If the Government has ordered that under-18 year-olds be incarcerated separately from 18 to 21 year-olds, it hardly makes sense to mix the two age groups when they are at their most emotionally vulnerable and volatile.

In a report on an establishment holding under-18s, before the Youth Justice Board assumed responsibility for their placement, the Chief Inspector wrote:

I do not think that I have ever been so profoundly depressed as I was when I saw some of the disturbing cases in wards of the Health Care Centre, including one who had been swung against the wall by his father at the age of 3 months, and had suffered from the effects of the head injuries he received ever since. Prison is no place for people like him, or the others in his ward, and there is an urgent need for better adolescent psychiatric support throughout the YOI Estate… I believe there is a need for the urgent development of a policy, again across the whole YOI Estate, to confirm where ‘in-patient’ children and young prisoners are to be sent, after 1 April 2000.119

The advent of the Youth Justice Board has not, perhaps unsurprisingly, answered this or other urgent questions relating to mental health and the inspectors have continued to raise their concerns:

Although some discussions [about speedily transferring patients to the NHS] had taken place and these had led to making available some sessions from a psychiatrist and weekly sessions from a community psychiatric nurse, arrangements for screening for mental disorders and monitoring treatment were far from satisfactory.

At least on the surface the atmosphere seemed relaxed, with easy and friendly exchanges between young prisoners and staff. However, it was clear that there were a significant number with mental health problems, including some children and young people who were depressed and withdrawn and thus vulnerable.

Inspectors could clearly see the benefit of the TSA [Trust for the Study of Adolescence] training from the understanding shown by staff; however it also demonstrated other areas of training that urgently needed to be covered and these are areas in which personal officers can easily get out of their depth. We believe this to be the case particularly in relation to mental health.

At least two of the young people we saw being reviewed were, we thought, quite seriously depressed; the number of [this institution's] children/young persons on prescribed medication suggested that there were others. Staff desperately needed support in responding to mental health needs and we very much concur with the recommendation of the Board of Visitors that better psychiatric support be made urgently available. We also draw attention to the recommendation made in the thematic review ‘Suicide is Everyone’s Concern’ that all prison officers should be trained to recognize the symptoms of mental disorder in prisoners.120
There were three in-patients on the day of our visit. Two were on remand having immediately prior to their court appearance been patients in NHS secure psychiatric units. Only limited information was available in their notes with minimal information from the NHS but we were told that the patients’ behaviour had become too disturbed and aggressive for the units in which they were patients. It seemed to us a very unsatisfactory situation if sick young people whose illness made them very disturbed have, because of their illness, to leave the NHS and enter prison where treatment and care is recognised to be considerably inferior to that in the NHS.

The continuing care of mentally ill patients in prisons who need more than primary care should be under the supervision of a specialist psychiatrist. This they did not obtain at [the establishment] though visiting psychiatrists saw some of the mentally ill inpatients. The position of the two young patients mentioned above shows how important this requirement of the health care standards is.¹²¹

At the time of our visit some 15 of the 21 inpatients would in our view and that of the staff at [the institution] have been more appropriately cared for in NHS secure mental health care. Many patients from outside the… area waited for three months or more for assessment and transfer. In effect [the institution] was being used as a waiting room for NHS inpatient care. This was entirely inappropriate. Some of the delay was due to slowness in visiting by consultants, some to disagreements about the appropriate level of care and some to shortage of suitable beds in the NHS.¹²²

During our inspection it was clear that many young people on the wings had evident emotional and behavioural difficulties. Some of this problem was due to non-compliance with treatment offered or lack of knowledge about what services were available and how these might help. But as in other prisons and YOIs some who needed help were held back by a belief that they would only be “offered paracetamol” and fears that “everyone would know” that they had a problem.” Child and adolescent mental health services were bought in on an occasional basis rather than being integral to health care at [this establishment]. We understood that this input was funded separately by the YJB. Whilst additional funding for health care from the YJB was very welcome in our view this should be dealt not as a separate item but via the HIP [Health Improvement Plan] agreed between the prison and the health authority. Indeed there is a sound case for the YJB to be party to the agreement and implementation of the HIP.¹²³

**Mental Health: What their rights are**

**International law**

*Standard Minimum Rules for the Treatment of Prisoners, Rules 82 and 83*

Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.

Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.
It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 51-3*

The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society.

Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

*In this country*

*Young Offender Institution Rules, Rules 27 and 28*

The medical officer of a young offender institution shall have the care of the health, mental and physical, of the inmates of that institution…

…The medical officer or medical practitioner shall pay special attention to any inmate whose mental condition appears to require it, and make any special arrangements which appear necessary for his supervision or care…

*Regimes for Prisoners Under 18 Years Old, Section 6.5*

**HEALTHCARE**

**Mandatory requirements:**

(ii) Mental health services must be provided by a multi-disciplinary team skilled and experienced in adolescent mental health. Young people who require transfer to the NHS should be seen, assessed and transferred as outlined in the NHS patients’ charter.

**Mental Health: What their rights should be**

- Before a custodial sentence is passed, children should be assessed for any mental health needs.
- The court should have powers to order that those needs should be met, preferably as an alternative to a custodial sentence.
- Children who are locked up shall have access to all appropriate forms of mental health care, including skilled identification of mental health needs.
- All efforts should be made to reduce the stigma of mental illness, for example by providing treatment in ordinary settings.
- The NHS should have full and direct responsibility for provision of mental health services within the establishment.
Drugs, alcohol and tobacco abuse

Many, if not most, of the children who are locked up are regular consumers of drugs; some are already addicted to them. This sets multiple challenges for the establishment. First the staff must ensure that the children do not consume drugs while they are there, which may mean limitations on the children’s privacy (because of searches) and opportunities to go outside the institution. Visitors, too, may be searched and visits conducted under close surveillance, with little possibility of making gifts to the inmates. Second, the child’s drug using must be identified and sorted out. Where children do not want to give up drugs this may be a hopeless enterprise, but many do want to change their habits and are keen to use their time inside to do so. Indeed they may be bitter about the amount of drug use they find in the institution and the temptations offered to them. The Government is keenly aware of the connection between drugs and offending, and of the high levels of drug use within prisons. National drug strategies, and local ones drawn up by Drug Action Teams, include measures for tackling drug abuse by offenders, particularly young ones. “CARAT” – Counselling, Assessment, Referral and Throughcare – is the approved programme at present.

Drink is as dangerous to these children as illegal drugs. Alcohol intake among the young is increasing; many crimes are committed, particularly those of violence, when the perpetrator is drunk; persistent or binge drinking is as much an enemy of work, study and regular routines as a drug addiction. More teenagers die from drink than from drugs. The Chief Inspector’s survey of unsentenced prisoners in 2000 led to his conclusion that that prison interventions for juveniles should concentrate as much on alcohol abuse as drug abuse.  

Smoking is of course equally dangerous for the long-term health of these children. Unfortunately, an almost universal characteristic of offending children is their inability to take a long-term perspective and as smoking appears to be an essential feature of the alienated teenage life-style, a large proportion of the children have been smoking from an early age. Given the high stress of being locked up, requiring the children to give up smoking at the same time seems crueler than it is kind. This problem does not only exist in locked institutions. Staff in children’s homes, for example, face the same dilemma – it is hard enough helping children in care surmount the multiple problems they face, without tackling their addiction to nicotine at the same time. But the locked institutions face the additional problem that banning cigarettes for one group of children – under 16s, or under 18s – and not for others, will inevitably create an alternative market in cigarettes with the attendant dangers of bullying and extortion.

Concerns expressed by the Inspectorate in recent reports

The inspectors were well aware of the dangers of drug abuse in Young Offender Institutions. For example:

Of the 357 new receptions, 101 (28%) were identified as using drugs and/or having an alcohol problem. The majority of these, 66 (65%) reported cannabis use, 19 (19%) young people between 17 and 20 years reported using heroin and 21 (21%) including one 15 and two 16 year old juveniles reported crack cocaine or cocaine use. Staff involved in the needs analysis felt that there was an under reporting of cannabis use and that this was related to how the questions had been asked at interview.

A recent report of research carried out by the Department of Health and published on 31 October 2000 by Drugscope, ‘Vulnerable Young People and Drugs: Opportunities to Tackle Inequalities’, points to the need for earlier and more effective interventions with
those at risk of becoming drug misusers. Children and young people who come into contact with the criminal justice system are amongst those most at risk. It is essential that whilst they are in custody the opportunity for assessment and intervention is taken.\(^\text{125}\)

Concerns were expressed to us about the high levels of benzodiazepine use among the young people at [this establishment] and that this was a problem created by ‘doc shopping’. Doc shopping involves young people going from one GP to another until they find one who is willing or who can be intimidated into prescribing benzodiazepines. We hope that [the regional health authority] will take the opportunity of addressing this problem since it also affects many other prisons.\(^\text{126}\)

“…the records of Health Care’s reception screening and those of the CARAT scheme showed high levels of cannabis use and a lower, although significant, use of class A drugs such as heroin and crack cocaine. In our survey, 28% of trainees admitted to having a drug problem and 14% an alcohol problem when they arrived at [the establishment].\(^\text{127}\)

Where children are suffering from a clinical addiction, the specialist health inspectors occasionally expressed anxiety about the standard of their treatment, such as:

If the Health Care screening on Reception indicated there were signs of opiate withdrawal, a standard dosage of dihydrocodeine, nitrazepam and domperidone were given until a doctor saw the trainee the following day. This system was unsatisfactory and at the time of our visit we found one boy who after his first dosage had been left without support or further treatment for nearly 21 hours. The treatment of opiate users bore little resemblance to that laid out in the establishment’s Medical Report, December 1999 to December 2000 and fell far short of the standard required in the PSO introducing the new ‘Clinical Services For Substance Misusers’.\(^\text{128}\)

In its most recent report on a juvenile unit the Inspectorate expressed doubt about the overall effectiveness of CARAT for children in prison:

However, we remain unconvinced that the Counselling, Assessment, Referral, Advice and Throughcare (CARAT) service in its present form is the most effective intervention for either the under-18 or young offender population. The current concept does not address their needs or follow best practice and should be reviewed. It contributed to the danger of over-assessment without workers being able to provide appropriate follow-up interventions. The service must be able to give the time required to build relationship and trust with children and young men who may have had difficult experiences with adults in the past. Predominantly white workers also need to find culturally sensitive ways of making services accessible and relevant to those from minority ethnic backgrounds whose prior experience of authority and the criminal justice system may make it less likely that they will want to engage with them... Educational interventions were needed for experimental and recreational users and these should be integrated into the education, training and work settings within the establishment. Solvent use including volatile substances, which currently results in between five and six deaths every month, most commonly amongst 14 to 17 year olds in the wider community... and steroid use have also been identified as specific areas of concern when working with young men. Creative ways of addressing these issues should be identified. For those whose drug use covers underlying abuse and/or grief issues, drug workers should have
the training and facility to work with these prisoners rather than expecting the young person to form a further relationship with someone else. Specific work with those whose carers have substance use problems was also needed and this should include both groupwork to lessen their isolation as well as one to one sessions where necessary.\textsuperscript{129}

The Inspectorate also recommended that the strategy on alcohol and tobacco be reviewed at a national level:

Whilst we recognize that there is no national alcohol strategy we recommend that alcohol is included in the drug strategy or a separate strategy is developed to complement it.\textsuperscript{130}

We were also concerned at the lack of national guidance on tobacco smoking with 15 - 21 year olds in a custodial environment, particularly given the law relating to under 16 year olds buying tobacco. The complexities of managing nicotine withdrawals, consequent behavioural and emotional problems, bullying and bartering for tobacco, health and ethical issues all needed to be addressed centrally rather than worked out at a local level.\textsuperscript{131}

We found that, in practice, [the institutional rule prohibiting children under 18 from smoking] was not enforced by disciplinary procedures. Tobacco products were not sold to youngsters in that age bracket but staff did not place them on report if they saw them smoking and senior managers had let it be know that they would not proceed with any disciplinary sanctions against anyone found smoking. This was a sensible approach but meant that the conditions for extortion and bullying were created by the adherence to this rule.

Young prisoners arrived in the institution, often having smoked for a number of years, to find themselves being denied this option. As a consequence there was a thriving trade between those young prisoners who were allowed to purchase tobacco products and the children who could not. We spoke to a number of children who told us that the price charged by other young prisoners for a single hand-rolled cigarette varied but was often as high as the equivalent of £1 a time. In an open institution such as [this one], it was impossible to enforce a non-smoking rule for children. The Prison Service should recognise this and review its no-smoking policy as applied to juveniles living within an integrated regime with young adult prisoners.\textsuperscript{132}

While we know the health consequences of tobacco smoking, we recognise that it is a highly addictive substance and therefore withdrawal from it has a significant impact on behaviour. We felt that it was unrealistic to expect [the institution’s] prisoner population, given their age range, to be able to manage nicotine withdrawal without professional support... The issues for those under 16 were further complicated by the legal restrictions. Five out of six juveniles in our survey who said they were not allowed to smoke were 15 years old. For three this was a problem. One said he got round this by “Doing a deal with the next pad.” We spoke to one juvenile who was in debt to seven different people for tobacco. Three trainees had stopped smoking because of bullies taking their tobacco from them. While the outcome may be considered positive, the means cannot be.\textsuperscript{133}
Drugs, alcohol, tobacco: What their rights are

International law

*UN Convention on the Rights of the Child, Article 33*
States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 51 and 54*
The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society.

Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

In this country

*Regimes for Prisoners Under 18 Years Old, Section 8.6*

**Mandatory requirements:**
(i) Governors must ensure that as part of the ‘demand reduction’ elements of the strategy, every young person receives drug awareness and education training.
(ii) Governors must provide advice and formal courses to help those with drug problems confront and end their abuse, and particular emphasis must be placed on preventing those who use ‘soft’ drugs from becoming ‘hard’ drug users.
(iii) Governors must make forcefully explicit the unacceptability of all drug abuse and reflect this practically in both the incentives and earned privileges and formal disciplinary systems.
(iv) As part of the ‘supply reduction’ elements of their strategy, Governors must:
   a. establish agreements with police locally in connection with the searching and arrest of people suspected of bringing drugs into the establishment;
   b. link the MDT arrangements with appropriate follow-up, advice and education for those young people whose samples test positive.
(v) Governors must set up provision for voluntary testing programmes which match identified need and treatment provision.

**Explanatory note:**
(i) Governors should aim to ensure that the rate of positive random drug testing within their establishment is lower than 20%.
(ii) Governors should ensure an integrated, multi-disciplinary approach to tackle drug misuse which optimises the resources within the establishment and in the local community.
(iii) Particular recognition should be given to the problem of alcohol abuse.
Drugs, alcohol, tobacco: What we recommend their rights should be

- Child-sensitive programmes should be devised and implemented to address children’s abuse of
  a) drugs (including solvents and steroids)
  b) alcohol and
  c) tobacco
  with particular regard to:
  — identifying and addressing the factors in the individual child’s history which have
    given rise to this abuse or addiction, including abuse, bereavement, social
    background and pressure from peers, gangs, carers and other adults;
  — integrating subsequent interventions with the child’s continuing education and
    community-based rehabilitation;
  — ensuring that tackling a tobacco addiction does not undermine the child’s overall
    rehabilitation.

Self harm and self-inflicted deaths

Between January 1998 and January 2002 there were 1,111 reported incidents of self harm by children under the age of 18 in young offender institutions. There have also been twelve self-inflicted deaths, all by hanging, all by boys. In the following pages we provide their names, ages, where they died and details about the lives of some of these boys. In our view all of these deaths were avoidable, though the blame for failing to do this must be shared between the local authorities that were responsible for the boys’ care before sentencing and the institution that locked them up. Many of the children who killed themselves in custody were in the care of the local authority. The miserable histories of those boys who hanged themselves include lethal failures of social services to provide them with adequate care before they received the custodial sentence and adequate support for them to look forward to on their release. While the failure of social services to support children in the community is not the proper concern of the Inspectorate, it must be a matter to be resolved by those who are responsible for the welfare of locked up children. It cannot be right that those charged with parental care of children are allowed to abdicate their responsibility as soon as a child is charged, and yet in practice this is often what happens. Recent cases before the European Court on Human Rights, together with bringing into force of the Human Rights Act, make clear that all arms of the State may be liable if they fail to take measures to prevent death or serious injury. All such deaths and injuries must have ‘effective investigation’ and be adequately compensated.

The Chief Inspector’s 1999 thematic review *Suicide is Everyone’s Concern* makes the point that suicidal behaviour is an inevitable feature of imprisonment, since imprisonment involves the banishment and humiliation of people who have already shown that they have great difficulties coping with life. This is as true for under-18s as it is for adults; arguably adolescents are even more prone to impulsive self-injury than adult prisoners. He also stresses that not all suicides will be preventable, and that many suicides are prevented by prompt and supportive action by staff. In addition, Inquest, the organisation that monitors deaths in prison and police custody, points out that not all self-inflicted deaths should be called suicide, since they may well have been cries for help rather than a genuine attempt to die.

The death of children fills us all with a particular horror – their life cut short, their potential unfulfilled. But the self-inflicted deaths of children carry two further horrors. First, that the children must have been intolerably unhappy and second, that responsible adults have failed in their primary duty – to keep children safe from harm. In many cases outside prison child
suicides come as a surprise, but so far as young offender institutions are concerned this manifestly cannot be the case since every child prisoner is known to be at risk of suicide.

The twelve boys who killed themselves during the period January 1998 to August 2002 are as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Date of death</th>
<th>Verdict</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colin John Scarborough</td>
<td>17</td>
<td>17.4.98</td>
<td>suicide</td>
</tr>
<tr>
<td>Nicholas John Welan</td>
<td>16</td>
<td>9.7.98</td>
<td>suicide</td>
</tr>
<tr>
<td>John Michael Keyworth</td>
<td>17</td>
<td>10.11.98</td>
<td>accidental death</td>
</tr>
<tr>
<td>Kirk Ernest Edwards</td>
<td>17</td>
<td>30.5.99</td>
<td>suicide</td>
</tr>
<tr>
<td>Anthony Howarth</td>
<td>17</td>
<td>29.8.99</td>
<td>suicide</td>
</tr>
<tr>
<td>David Trevor Dennis</td>
<td>17</td>
<td>30.5.00</td>
<td>suicide</td>
</tr>
<tr>
<td>Philip Griffin</td>
<td>17</td>
<td>1.8.00</td>
<td>misadventure</td>
</tr>
<tr>
<td>Kevin Henson</td>
<td>17</td>
<td>6.9.00</td>
<td>suicide</td>
</tr>
<tr>
<td>Anthony Redding</td>
<td>16</td>
<td>14.2.01</td>
<td>accidental death</td>
</tr>
<tr>
<td>Mark Dade</td>
<td>16</td>
<td>27.7.01</td>
<td>awaited</td>
</tr>
<tr>
<td>Kevin Craig Jacobs</td>
<td>16</td>
<td>29.9.01</td>
<td>suicide</td>
</tr>
<tr>
<td>Joseph Peter Scholes</td>
<td>16</td>
<td>24.03.02</td>
<td>awaited</td>
</tr>
</tbody>
</table>

**Philip Griffin**

Philip Griffin was a few weeks into a ten-month sentence for burglary and robbery when he hanged himself, aged 17. The prison reported him as adapting well to prison life. At the time of the sentence he was homeless and his family had allegedly washed their hands of him when they heard of his offence. His lawyer argued at court, with supporting evidence, that he was not mentally stable and could not cope with life inside, but he nonetheless received a custodial sentence.\(^{137}\)

**Joseph Scholes**

Joseph Scholes hanged himself a month after his sixteenth birthday. Since his parents’ acrimonious divorce some years earlier he had allegedly suffered repeated sexual abuse by a relative, had received psychiatric treatment for depression and had tried to kill himself. He then went into the “voluntary care” of the local authority and was placed in a children’s home. Four days after this placement he joined a group of children from the home who committed a robbery, with Joe acting as their look-out. Two weeks before his arrest he slashed his face with a knife 30 times; the room was so bloody it had to be repainted. The young offender institution knew of his history and had him closely watched, but he seized a five minute opportunity when a staff member went to the lavatory. The Prison Director Martin Narey is quoted as saying, “we did everything we could for a boy who should not have been there.”\(^{138}\)
Kevin Henson
Kevin Henson had developed emotional problems following the death of his mother when he was 14. He had become seriously dependent on alcohol and had a number of convictions relating to alcohol abuse. His remand to custody, on a charge of wounding, was his first experience of prison. On September 5 he was refused bail. He had hoped to be granted bail to visit his mother’s grave on her birthday, which fell soon after. The visit to her grave was of particular importance to him and a ritual he had carried out regularly. The following morning he was found hanging in his cell. He had been dead for several hours. Notes and letters were left expressing his desire to join his mother. A month before his death the governor of the YOI Kevin died in had resigned in protest at conditions he described as “Dickensian”. 139

Kevin Jacobs
Kevin Jacobs had been in the care of the local authority from an early age. He had been remanded to custody and then sentenced to a six month detention and training order. During the three months he was inside he had been a victim of bullying and had self-harmed on numerous occasions, including one serious attempt at hanging himself. Kevin had become increasingly anxious about his release as the social services had made no arrangements for his care; his social worker confirmed this the day before his suicide. Staff at the young offender institution were extremely concerned about his safety, but he had no adequate mental health assessment and had been discharged from the health centre to an ordinary cell with accessible ligature points because the safe cell on the wing was being refurbished. He was being checked every hour on the night he killed himself. The inquest jury held that “gross deficiencies” in the prison system had been partly to blame for his death, criticising the lack of safe accommodation, failure to distribute information about Kevin’s suicidal tendencies and lack of communication between agencies. 140

Anthony Redding
Anthony was serving a four month detention and training order when he hanged himself. It was not his first experience in custody: the youth offending services had informed the court that he had twice attempted suicide in his previous sentence at the institution and had been a victim of bullying and self-harm. He tried to hang himself with his shoe laces in the escort van taking him back to the YOI. He was initially placed in the health centre, where he attempted to strangle himself with a protective blanket. After a couple of weeks, during which Anthony expressed very high levels of anxiety and his local YOT worker faxing the Youth Justice Board with a request for his transfer to a secure unit, Anthony was transferred to a shared cell where, within minutes of being left alone while his cellmate went to an interview, he tried to hang himself. He was restored to the heath centre, but in less than a week he was back on the residential wing in a single cell, against his wishes. The health staff asked for him to be checked at frequent intervals. He was found hanging from the window bars, an hour and ten minutes after the last check. 141
Concerns expressed by the Inspectorate in recent reports

The inspectors always looked at the institutions’ F2052SH forms, the form opened when anyone is seen to be at risk of self-harm. Not only do these forms indicate what sort of self-harm is involved – for example suicide attempts, or self-mutilation by cuts – but they are also a rough indication of the emotional climate of the establishment, for example its rates of bullying. However the inspectors treated any such deductions with caution. In one establishment they noted that the older 18-21 year-olds might be concealing self-harming feelings because they thought they might jeopardise their chance of home detention curfew, and that all age-groups were wary of the stigma attached to F2052SH forms, so that the establishment needs to give priority to the confidentiality of this information:

Consideration also needs to be given to reducing the stigma of being identified within this category. Firstly the handling of the F2052SH file could be transported between the wings and other departments in an envelope to ensure confidentiality of the named individual. Secondly greater discretion needs to be applied when arranging a meeting with the young person on the wings. Whilst such support of young people is necessary and considered to be good practice there is a need to implement this in a manner which does not draw attention to them. Some young people described times when “everyone knew why I was being spoken to” when a prison officer asked to see them.142

Preventing suicide attempts in young offender institutions should be possible, given the known high risk – but of course, the depression and misery induced by a custodial sentence will mean that there are disproportionate numbers of children so determined to make an end of themselves that the most vigilant surveillance is inadequate. Nonetheless the inspectors noted a number of failures to take commonsense measures against suicide attempts. For example:

The cell call system was deficient. Although a light lit up outside the cell when the call bell had been pressed, this was not clearly visible. The audible alarm system rang in an unstaffed office, outside the immediate area of the cells. It could not be heard.143

Inspectors were concerned that the Suicide Awareness Committee, the Anti-Bullying Committee, and the new Child Protection Committee each had separate reporting lines, apparently with different governor grades as chairs. It seemed to us essential that there should be the closest of connections between each of these.144

There had been two suicides at [the establishment] in the previous nine months, the first in October 1999 and the second in February 2000. Inquests had not been completed on either case. A common consideration in both cases was the need for shared cell accommodation. At present there were no designated shared accommodation areas within house units. It was generally thought that they should be provided in the health care centre but in our view each house unit should have shared accommodation to help those at risk.145

There had been one suicide since January 2000 [ten months before the inspection]. A full internal inquiry had been undertaken but this report had not been submitted to the establishment at the time of the inspection. This was an untimely delay. Reports on deaths in custody should be concluded quickly.146

… one child had been placed on a self-harm watch (F2052SH) five days before the start of the inspection after a serious attempt to hang himself. It was clear from the
examination of his records that he had been complaining of bullying in the days leading up to the attempt and indeed had been showing other signs of trying to self-harm. These had tended to be dismissed as attention-seeking or manipulative behaviour. It appeared from the record in the F2052SH documentation that although he was being carefully watched, there was little evident strategy in place to get to the root of the bullying.\textsuperscript{147}

Trainees were given two handouts at the end of the reception interview; one on “Suicide and self harm reduction” and one on “Health care services for trainees”. The information was not discussed at that point, which assumed that all young people were able to read and interpret the information. If someone was feeling vulnerable or suicidal the information could reinforce such feelings, if not discussed in a supportive manner.\textsuperscript{148}

**People to support self-harming children inside**

Until recently the Samaritans had provided valuable support to all prisoners, including young offenders under 18. However it appears that their role in relation to children is not clear, in part because it was thought that the Samaritans very high level of confidentiality put them in breach of the institution’s child protection policy. There have also been difficulties with the peer support system introduced by the Samaritans:

Involvement from The Samaritans had changed. Being no longer required to train Listeners they now visited units regularly. A dedicated mobile phone to The Samaritans for juveniles was to be brought into use. At the time of our inspection the strategy for preventing self harm in young people on remand had not been reviewed since the sentenced young offender population who provided the Listeners, had been decanted. Since The Samaritans only trained convicted prisoners with at least six months left to serve, as an interim measure, the Psychology department had trained shorter term prisoners as Listeners and provided them with ongoing support. However, this number had decreased and the establishment was faced with the dilemma of being unable to provide young adult Listeners to a remand population at a time of high risk. The personal officer scheme was designated to replace Listeners. There should be some direction from the YJB and the Prison Service about how juveniles on remand should be supported, and the appropriateness or otherwise of using a peer support model with juveniles.\textsuperscript{149}

As well as the need for people to support and befriend children who are self-harming, the inspectors commended one institution’s co-option of children in drawing up strategies in this area:

A sub committee of young people (the Prisoner Suicide Awareness meeting) met regularly and provided inputs to the main committee.\textsuperscript{150}
Suicide: What their rights are

International law

UN Convention on the Rights of the Child, Article 6
States Parties recognize that every child has the inherent right to life.
States Parties shall ensure to the maximum extent possible the survival and development of the child.

European Convention on Human Rights, Article 2
Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 56 and 57
The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body.
Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

In this country

Regimes for Prisoners Under 18 Years Old, Sections 6.1.2 and 7.4
Reception into custody: mandatory requirements
…Every young person must be screened on the day of arrival to ensure that their safety is ensured, all immediate health care needs are identified, the likelihood of their harming themselves and the need for further in depth assessment of physical, mental health and substance misuse history. Where a risk of self harm or suicide is identified to ensure that appropriate action is taken to minimise it.

Every young person must be interviewed within two hours of their arrival with the purpose of completing procedural formalities; and of providing them with all the necessary information in the most appropriate format in order to reduce anxiety, tension and uncertainty and which will help them cope with the first night in custody.

Governors must ensure that staff who receive the young person into custody clearly inform night duty staff if they have concerns about a young person - particular care must be taken to hand over information about a young person’s anxiety, withdrawn or unusual behaviour which may indicate that they may harm themselves.

During the 24 hours following reception, in depth assessments must take place for those young people identified during reception as having potential physical and/or mental health needs or drug and alcohol problems to assist the formulation of plans for further assessment, treatment or management as appropriate, where assessments of this sort have not already been completed and accompanied the young person from court.
Preventing self-harm: mandatory requirements
Governors must ensure procedures, to identify and care for those at risk of self-harm, are understood by all staff and are effectively implemented.

Governors must ensure that the way the establishment is managed on a day-to-day basis eliminates, as far as practicable, those situations and deals robustly with those types of behaviour (shouting out of windows/cell doors at night for example) which prompt and/or exacerbate the likelihood of self-harm.

Suicide: What we recommend their rights should be

- Children should not be in Prison Service custody, and no child should be locked up without a full mental health assessment.
- Local authorities should retain full responsibility for all looked after children placed in custody.
- All self-harming behaviour should be treated seriously.
- Children who appear to be at risk of self-harm should be offered counselling and advice from someone independent of the institution, as well as adequate mental health and befriending services within the institution.
- The institution should encourage children in the institution to assist in the prevention of self-harm and suicide.
- All procedures relating to individual children who are considered to be at risk of self harm should be accorded a high level of confidentiality and care should be taken to ensure that no adverse consequences follow a child being identified as at risk.
- The mandatory requirements of Regimes for Prisoners aged under 18 Years Old (see above) shall be enforceable rights.

Bullying and child protection

Preventing bullying is possibly the most difficult task facing locked establishments for offending boys. They are boys who have been programmed by a culture of street, school and home which venerates the ‘hard boys’ - those who are tough, win fights and who can control others by force. Many of the boys who are large or physically strong will see this as one of their main assets; others who are weaker will have learnt other methods to dominate or hold their own, and as the Inspectorate points out, even the weakest victims may need to bully, or ally themselves with bullies, in order not to be at the bottom of the pecking order.

As is clear from the Inspectorate’s reports below, it is clear there is no one key to eradicating bullying. A whole bundle of strategies are needed, of which one of the most important is to give the boys something more positive to feel good about than bullying others. Discussion of whether bullies have low or high self-esteem is pretty irrelevant in a prison, since no-one can have any real self-esteem if they are serving a custodial sentence. And an establishment where boys are humiliated or treated disrespectfully by staff will always contain bullying between the boys on the ‘kick the cat’ principle.

In 1999 the Prison Service issued a thoughtful and comprehensive Anti-Bullying Strategy which requires Prison Service establishments to give the issue high priority, have an anti-bullying co-ordinator, measure the scale of the problem, encourage reporting, support the victims and take sanctions against the bullies. Like “Regimes for Prisoners Under 18 Years Old”, this
Strategy is a Prison Service Order and as such is unenforceable in law, save as evidence that the establishment has behaved unreasonably by not following the Order.\textsuperscript{151}

Not all bullying will be an appropriate subject for child protection procedures under the Children Act 1989, any more than all fights between children should be the subject of a criminal investigation. Nonetheless it is completely unacceptable that social services should not be responsible for children in their area who plainly are at risk of significant harm from bullying, just as some assaults should properly be referred to the police for prosecution. The danger of all institutions is that they act as though they are sealed off from the rest of us, like small separate worlds. A locked institution for children must emphatically be a part of the ordinary community to the maximum extent possible, and the children should have as many of the same rights as the other children in that area. While there have been some examples of local area child protection committees taking responsibility for children in young offender institutions this is still not common practice, nor is it clear what powers they have. Until there is a case where social services remove vulnerable children from young offender institutions on the grounds that they are at risk of suffering significant harm we remain unconvinced that adequate child protection exists for these institutions.

**Concerns expressed by the young people**

“The say stuff like your mam’s a slag and stuff like that”

“[They say things like] ‘When I get out I’m going to kill your dad and rape your sister’”\textsuperscript{152}

“They asked me to sing songs, told me to hang myself and told me they were going to kick the shit out of me”

“Try to shake me up but it didn’t work”

“Everyone does this to see if you’re a target”

“The test is when they shout out through the windows, if you lay back and take abuse given to you you’ll constantly receive stick but if you stand up for yourself they’ll leave you alone” \textsuperscript{153}

Juvenile respondents to [an Inspectorate] questionnaire on the subject of personal safety showed that 26% of respondents had been assaulted by other juveniles. To the question of whether they would feel able to tell staff about bullying, 43% said ‘Yes’ and 39% said ‘No’ (17% were missing replies). Reasons given for why they would not tell staff were:

- They’d probably laugh
- Because up here nothing is confidential
- They didn’t do anything when I was beaten up

Reasons given for why they would tell staff were:

- I can’t sit in silence over bullying whether it be me or someone else
- People tell staff about bullying everyday and the bully is dealt with quickly”\textsuperscript{154}
Despite good induction procedures on bullying the Inspectors’ interviews with juveniles showed that notwithstanding this, bullying was endemic – particularly being directed at new arrivals, younger boys, those in custody for the first time and those who came from rural areas or provincial towns. Their comments were that ‘you had to look after yourself’ and ‘your fists were your best friend’.

Concerns expressed by the Inspectorate in recent reports

Anti-bullying strategies

The Inspectorate gives high priority to effective action against bullying and its reports contain thoughtful analysis of the causes and solutions to the problem. Here inspectors commend the vigorous action taken by staff in one institution against bullying:

When we last inspected [this institution], bullying was rife amongst both juveniles and young prisoners and victims were reluctant to name bullies. Furthermore the inactivity and the failure of staff to act promptly made such behaviour possible.

When we returned… this time, we found considerable strides had been taken in the prevention and control of bullying… On Unit Two [for juveniles under DTOs], for example, in a nine-month period September 2000 – May 2001, 61 bullies had been identified. 39 were on Stage One of BABS [the institution’s Anti-Bullying Strategy which provides increasingly intensive groupwork with bullies], 16 on Stage Two and six on Stage Three. This was a clear indication of the vigour with which bullies were pursued when we compare these figures with the last report in which we found only one young prisoner who was on Stage Two of BABS.

However the inspection questionnaires showed that, actually, the young people in the institution were still frightened of attending education, gym and the holding rooms waiting for visits. The inspectors concluded that, in fact:

…but levels of bullying, in all its manifestations, had not diminished. However the significant point about these results is that a clear strategy was in operation which hopefully, would begin to impact on the street culture that was imported when these youngsters came to [the institution].

The ineffectiveness of simply adopting an anti-bullying strategy alone, was noted at two other establishments:

Courses for bullies and victims had been set up but, overall, there had been little change since the findings of a year ago.

Although a strategy had been written, it seemed to have been pulled together from other establishment strategies and was put together before there had been any qualitative survey to measure the problem and identify areas of concern… We were concerned to note that the strategy concentrated on dealing primarily with the bully and in many ways failed to meet the needs of the victim in providing adequate support. Additionally, although referrals were sought for victim awareness and assertiveness training, there was little, if any, method to fast track them through the system… A preference for implementing the punitive element of the strategy seems to
predominate throughout the establishment, with the victim left isolated and having very little confidence in the system.\textsuperscript{158}

Against this huge challenge, the Inspectorate sees the first step as the accurate identification of bullying. For example inspectors noted that:

Psychology staff told us of research they had completed which indicated that prison staff wrongly identified acting-out and anti-authority behaviour as bullying. More skilled, low profile, sophisticated bullies went undetected and continued to target other offenders on ordinary location.\textsuperscript{159}

In another establishment they found that although almost all of the children they spoke to (80\%) said they never or rarely felt unsafe, the records of adjudications showed that there were a high number of fights:

and we wondered how young people felt safe in an environment in which fighting was so prevalent.\textsuperscript{160}

The only way to know precisely whether bullying is going on is to be the victim of it. As the inspectors point out, staff need to be very close to the boys as human beings before they will make accurate distinctions between bullying and the kind of rough give-and-take that may exist in friendly relationships between adolescent boys:

One, if not the most, important exercise for adults working in secure establishments for juveniles is to recognise the extent of bullying behaviour and its effect on young people. It is all too easy to pass off some of the interchanges that take place between young people as harmless examples of fun or of ‘character building’. Staff need to be very close to what young people are actually experiencing as individuals to be able properly to recognise bullying.\textsuperscript{161}

Although staff generally engaged with young people in an effective and proactive way, relationships were inevitably rather undifferentiated because they could find themselves working on any of the four landings. They appeared to know something about all the young people but nothing in depth about any of them.\textsuperscript{162}

An understanding of the causes of bullying is essential for effective action. One necessary perception is that bullies may also be victims, sometimes at the same time:

Many children, having themselves been the objects of physical and sexual abuse, learn that an effective way of being accepted within the subculture of an institution is to perpetrate acts of intimidation on other victims. This was certainly the case at [this institution], judging from our observations and from the comments that young prisoners made anonymously through the survey.\textsuperscript{163}

The Inspectorate therefore questioned one establishment’s anti bullying strategy, in that it:

appeared to be a fairly punitive one that ultimately resulted in a young prisoner who had been identified as a bully being transferred out of the establishment.\textsuperscript{164}
However, it is clear that bullying may – and should – be tackled by treating the symptoms as well as by searching for the psychological cure. One requirement for effective anti-bullying is clearly a geographical audit of bullying danger spots, for example the showers and PE:

...staff as well as trainees said that there were plenty of places where assaults could take place out of sight. The stairs and shower areas were primary sites for this. One trainee told us he had been assaulted twice...

In our questionnaire, 13% of respondents regarded PE as being either an unsafe or very unsafe area. During the week of the inspection trainees also said that the showers in PE were dangerous since it was a place where assaults took place. Residential staff also reinforced this and said that trainees often preferred to have a punishment rather than go to the gym.\textsuperscript{165}

As we identified in our last inspection report, the design of the buildings at [this institution] made staff supervision of young prisoners very difficult. We highlighted the difficulties for staff in observing shower and toilet areas and the fact that the basic design of spurs with narrow corridors in the sleeping areas made sight lines for staff supervision very difficult. Safety had thus to be secured through effective staff relationships with children and young adults. We were very pleased to see that on [name of ] wing the personal officer scheme was now so well established that each spur, or wing, of 12 cells was overseen by two officers who were each responsible for six children and covered each others’ absence.\textsuperscript{166}

Juveniles we spoke to told us how easy it would be if they wanted to prevent staff from entering the showers whilst another trainee was being assaulted in there since the showers door opened inwards and it could easily be barred shut. The Anti-Social Behaviour committee would shortly be introducing a showers list so that staff would know, at any one time, who was in there. In the event of a fight or assault, this would narrow the names down to a handful of boys who could be questioned.\textsuperscript{167}

The last extract shows how important it is that the focus is on prevention not detection – the fact that the staff know who is in the showers at any given time is not going to stop a determined assault occurring, regardless of the investigation afterwards. Obviously close staff supervision at showers, gym and other vulnerable spots is essential.

Another factor giving rise to bullying is the desire for material goods, such as tobacco or phone cards, which can either lead the victim into debt or can expose him to theft. Again, there are practical remedies:

A major trap for a new reception is to be lured into debt. Whilst we were pleased with the pack that was given as an advance to newcomers, the quantity of cigarettes was insufficient to last the week; for many the solution was to seek a loan from other young prisoners and risk getting into debt, with all the likely consequences.\textsuperscript{168}

There were elements of the regime that were designed to make bullying more difficult; for example staff kept young prisoners’ phone cards in their offices to prevent them being traded, and young prisoners were offered a “Canteen Pack” on arrival at the establishment to help them avoid debt in the first few days.\textsuperscript{169}
A feature of bullying that persistently troubled the inspectors was the shouting of abuse and threats from cell windows (examples of which are given in the children’s quotations above):

When the wing was locked in, noise from cells was not obvious from the landings. However from the ground outside we heard lots of shouting from cell windows, including verbal threats and abuse between trainees.\textsuperscript{170}

The common practice of shouting out of cell windows was intimidating and destructive. For anyone who might think that such behaviour is mere teasing, it is instructive to stand for a few minutes outside the house units, particularly after day staff have gone off duty and listen to the intense abuse, insults and examples of provocation, some apparently designed to drive particular youngsters towards self-harm behaviour. Staff and managers recognised the malign influence that this was bringing to bear on some of the young people but there was little sign of a determination to bring the practice under control. There are no simple solutions to this problem; indeed draconian responses from the authorities, on their own, will almost certainly fail. It should not be forgotten that boredom is often an important factor in the behaviour of bullies. Therefore, the more that the regime legitimately challenges young people the less likely they are to set up their own informal challenges which invariably result in the more vulnerable among them being victimised. Certainly, there need to be practical and effective sanctions for those who engage in shouting out of windows, but these should be supported by a much closer involvement of staff with the young people at an individual level and by the promotion and rewarding of responsible behaviour. This is such an important influence on the attitudes and behaviour of young people at [this Institution] that unless the matter is tackled it is almost certain to undo the positive influences that can be gained from the regime.\textsuperscript{171}

Another cause of bullying was over-crowding and mixing of older and younger children, or of children on different forms of sentence:

The high level of violence that they faced during association periods understandably preoccupied staff at all levels. We developed respect and admiration for the good humour and patience with which they responded and contained the fights that took place, usually around the pool tables. The reasons for this violence were complex, but seemed to include:

- difference in ages, and in particular the difference in status, between those on section 53(2) and on the DTO;
- the absence of programmes for long-term sentences;
- different geographical loyalties. Children from rural or provincial towns told us they felt intimidated by older boys from large cities;
- the overall size of the group. Staff and children alike told us that sixty adolescents milling around a few pool tables in the same enclosed area was just too many;
- the absence, as of yet, of any smaller group activity, such as YMCA activity, Chaplaincy group or evening classes.\textsuperscript{172}
However at [this establishment] we were most concerned about the influence of intimidation on young prisoners by other young men. It should be an early priority for managers to introduce a proactive scheme to combat bullying and thereby make [this institution] a safer place for young prisoners to live. 173

The children, from what they themselves told us, were equally aware of the priority that staff attached to preventing bullying but at the same time children told us that it was widespread. The problems of the size of the unit, the age range and mix of the population…all aggravated the situation. 174

Concerted efforts are clearly needed on many fronts before the threat of bullying will be eradicated, and staff at even the pleasantest place must be continually vigilant. Undoubtedly an absolute prerequisite for tackling bullying was creating a “culture of care and concern”, as is here described in an institution which takes only under-18 year-olds:

All the young prisoners were kept occupied during the day and enjoyed association almost every evening. There was some bullying going on but staff were alert to incidents and moved in quickly to ensure the weaker person was protected and challenged the perpetrator. Young prisoners told us they felt safe and confident that the staff would support them if they needed help. We were told that bullies rarely moved beyond the initial warning stage as they were kept under such close scrutiny. A culture of care and concern was developing amongst most staff and appreciated by the young prisoners in their charge.

Senior managers… had decided to monitor the statistical information to see whether the changes introduced over the last year had affected good order. This is a difficult undertaking, as official statistics taken from adjudications do not necessarily give a clear understanding of the nature of violence within a unit. However the changes had brought about significant differences and this was reflected in comments made by prisoners. 175

Child protection

The inspectors have clear concerns about the implementation of new orders which bring child prisoners under the auspices of Area Child Protection Committees. They have been eager to commend Staffordshire Social Services trail-blazing initiatives in this respect, not least because the authority has – uniquely – two young offender institutions for juveniles, Brinsford and Werrington, within its area:

… with 30 investigations either completed or in progress, Brinsford had one of the most comprehensive child protection programmes yet found in any inspection. The features of this included:

- very close collaboration with outside agencies, including the police but in particular Staffordshire Social Services who had put a lot of energy into both investigations and staff training…;
- free access by Brinsford staff to the wide ranging training programme organised by Staffordshire Area Protection Committee (ACPC);
- The Governor co-opted as a full member of the county ACPC…;
A regular monthly meeting of the establishments’ child protection committee which was well attended by staff from across the establishment and by police and social services….

We sampled 15 reports of investigations currently in progress. These covered the whole spectrum of child protection activity – disclosure of historic abuse, allegations of abuse by staff or other young people.

In particular I must single out the piloting of the Child Protection Procedures, following the protocol drawn up by the Prison Services’ Young Offender Group. North Staffordshire Social Services guarantee a 7-day per week service to the establishment, by the provision of an emergency Social Worker on call. They are represented by a key worker on the establishment’s own Child Protection Committee, as is the establishment, in the form of the Governor or his representative, on the Area Child Protection Committee. It does not matter from what part of the country boys come; the key worker will refer any past, present or potential cases to colleagues in the appropriate Area. The system is simple and clear cut, and it works. I hope that it will be accepted as a model of best practice and quickly adopted by all establishments containing juveniles.

The pilot Werrington child protection strategy was formally issued in October 1999, after detailed discussion with the North Staffordshire Area Child Protection Committee (ACPC) within whose area it falls… During the piloting period, we understand that some ten situations were felt to satisfy the test of suspected or actual ‘significant harm’ that should be independently referred to the ACPC. Some of these related to disclosures of alleged abuse that had happened before the child’s reception.. Others related to events occurring after arrival.

Other establishments have not been so fortunate in their local social services:

To be effective, [this institution] required close internal co-ordination and quality close liaison with outside agencies, in particular the Area Child Protection Committee. Both seemed to present problems.

Internally, there had been changes in the lead responsibility for child protection, which resulted in a lack of continuity. Currently this responsibility lay with the head of personnel, which meant that it was rather detached from the work of the Head of the Juvenile Units. In practice most of the work was done by throughcare staff. A sample of entries in the child protection log suggested that there was some confusion resulting from these responsibilities being so dispersed.

Externally, it appeared that the local Area Child Protection Committee had found it difficult to provide the support to [the institution] that other establishments enjoyed. It was not clear why this was. There were some suggestions that [the institution’s] work was not seen as a priority because there were few children [from the local authority] there. We noted that the Governor had been seeking a seat for over a year on the ACPC, as recommended in the Prison Service guidance, and she was to attend a meeting for the first time in June 2001. Reading of the records suggested that a number of matters, logged as being resolved after internal investigation, really required at least an overview by an external agency so that such action could be confirmed.
The support to [the establishment] from [its local authority] appeared to us to be distinctly reluctant, certainly at senior level, illustrated by the decision to refuse the Governor’s request for a place on the County’s ACPC because that committee had a “more strategic role with regard to an overview of social care policy throughout the county rather than just one agency or one site”. This view seems to us to convey a lack of awareness of the needs and vulnerability of a constantly changing population of 240 children at risk located within its area and of the ACPC’s duties towards them.179

The question of what constitutes a matter for child protection agencies within child prisons clearly needs greater clarification than is currently provided by Annex B (the appendix to Regimes for Prisoners Under 18 Years Old outlining child protection procedures in line with the Department of Health guidance Working Together):

There were as yet no local procedures in place as required by Annex B to PSO 4950 which had been issued shortly before our inspection. Senior staff assured us that it was proposed shortly to convene the first meeting of the mandatory Child Protection Committee and that informal preparatory discussions had already taken place with the [local] Area Child Protection Committee (ACPC). ….It was important that the [institution’s] local procedures should elaborate upon Annex B, ensuring that it made clear when action should be taken, and by whom, in cases of:

- disclosure of abuse allegedly perpetrated on a child prior to his arrival at the establishment;
- allegations against staff within the establishment;
- abuse, or risk of it, of one child by another.

The last category presents particular problems for the Prison Service generally as it is cleanly impracticable for every fight or incident of bullying to be made the subject of a formal conference convened under the auspices of the ACPC. However, there will quite often be situations where this necessary, for example, as a result of the incident which occurred during our inspection when a 15 year old had his jaw broken after an assault by a 17 year old.180

Thus, at another establishment, “child protection” appeared to have become synonymous with “investigating allegations of staff assault”:

In common with all other establishments holding those aged under 18, [the establishment] had drawn up the procedures required by Annex B…[It] had dealt with 26 cases under this procedure, a figure consistent with those of other establishments holding a comparable population. Of these 23 related to allegations against staff, many of which had resulted in suspensions and most in police investigations. This was a much higher proportion than has hitherto been found in other establishments, where a high proportion relate to disclosures of past abuse or particularly problematic incidents between young people whilst in the establishment. It was difficult to conclude whether the high number of allegations against staff actually meant the volume was higher than elsewhere; it was however clear that in the minds of staff, child protection had become equated with allegations against staff procedure and that it was not being used for the two other categories of child protection. It was highly likely that during the period in question there were a number of young people who had been victims of abuse, which had not previously been investigated.181
In an earlier report the inspectors had pondered the question of the role of Area Child Protection Committee’s in intervening not only in abuse by individuals but by the whole custodial experience:

[The institution’s] child protection protocol required any member of staff to refer to a duty governor, any young person who was believed to have suffered harm physically, sexually, or emotionally whilst in the establishment, and to regard that young person as being at risk of self-harm. We saw a number of situations which prima facie fell within this definition and had many others reported to us by both staff and young people. They raise a number of questions which up to now remain unanswered. Do fights and assaults between young people fall within this category? Does bullying? Does the placement… of a child patently too young or vulnerable to cope in a prison environment constitute a risk of significant harm within the meaning of the Children Act 1989 from the moment he enters the establishment? There must be an approach agreed generally across the Prison Service as well as a local agreement between the ACPC and [the young offender institution] as to the point at which child protection procedures should be activated.132

Bullying and child protection: What their rights are

**International law**

*UN Convention on the Rights of the Child, Article 19*

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**In this country**

*Young Offender Institution Rules, Rule 55*

An inmate is guilty of an offence against discipline if he -
- commits any assault;
- commits any racially aggravated assault…;
- detains any person against his will…;
- fights with any person…;
- intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered…;
- uses threatening, abusive or insulting words or behaviour;
- uses threatening, abusive or insulting racist words or behaviour… .

*Regimes for Prisoners Under 18 Years Old, Section 7.6*

**Child protection**

Governors must establish arrangements with the local Area Child Protection Committee (ACPC) for dealing with incidents in which a young person has or may have suffered significant harm.

(See Annex B).
Where a complaint cannot or has not been resolved through internal means, the young person must be made aware of and helped to use other means of taking forward grievances, such as the Prisons Ombudsman.
Governors must also ensure that their establishments deal with all public correspondence in accordance with PSI 35/99.

Explanatory note:
The requirement to introduce ACPC arrangements is consistent with the Prison Service’s responsibility to reflect the principles and practice contained in the Children Act 1989. The Protocol for setting up ACPC arrangements, which is issued separately to this PSO, has been agreed with the organisations with which Governors will need to make contact including the Association of Directors of Social Services, the Association of Chief Officers of Probation, the Association of Chief Police Officers and the Local Government Association. In the first instance Governors must make contact with local social services and the police to discuss how these arrangements may best be set up and put into practice. Staffordshire are currently piloting these new arrangements. (See Annex B).

**Bullying and child protection: What we recommend**

**their rights should be**

- All locked establishments for children must ensure that active measures are continually taken to prevent, detect and deal with bullying, including:
  - giving children a clear message from induction onwards what bullying comprises and that bullying of any kind is not acceptable;
  - cultivating caring and respectful relationships between staff and children so that staff are able to identify bullying behaviour;
  - insisting that all discourse between every member of the establishment is respectful;
  - providing easy ways for the children to inform staff that bullying is occurring;
  - ensuring that children who do inform are protected from the bully, if necessary by moving the bully;
  - undertaking regular anonymous questionnaires which ask the children about bullying, including when, where and why they feel vulnerable to being bullied;
  - involving the children in developing anti-bullying strategies;
  - ensuring that areas where children get together are carefully supervised by staff (with appropriate safeguards against over-invasive monitoring, such as modesty screens in showers);
  - taking action against bullies which confronts them with their actions and which seeks to change their behaviour;
  - reducing opportunities for theft and debt by, for example, providing children with a pack of phone cards, toiletries etc at the outset of their sentence; arranging for any goods bought at the canteen to be delivered by staff to their room; keeping in a secure place valuables such as phone cards, to be available when needed; providing locked cupboards in children's rooms.
• Children under the age of 18 should not be locked in establishments where they have any association with prisoners over the age of 18. Children should be accommodated in units which have high staff-child ratios and care should be taken that regimes, including privileges and sanctions, are applied fairly, regardless of sentence.

• The Children Act 1989 should apply to all children in custody.

• The local child protection agencies should attend the establishment on a regular basis and should act in any case in which children are suffering, or are at risk of suffering, significant harm, including where they believe the custodial setting is avoidable and is causing significant harm to the child. This action should include removal of the child to a place of safety.

• Police investigations should occur in any case of criminal assault causing actual or grievous bodily harm.

**Staff attitudes and protection from ill-treatment and humiliation**

Ill-treatment in prisons is inflicted either by other inmates or by staff. Ill-treatment perpetrated by other inmates is called bullying and is endemic in all locked institutions, though the degree to which bullying is tackled varies greatly between them (see above). Suffering caused by the staff may sometimes be categorised as abusive, but may also be seen as ‘discipline’, or an expression of ‘staff morale’. Not all ill-treatment is physical, though some boys do experience assaults from staff, or live in fear of them.

At the heart of all ill-treatment is a lack of respect for the victim. Institutions in which some people are routinely treated disrespectfully will inevitably be abusive. Ideally, of course, relations between staff and children should be friendly and positive, but if this is not possible then clear prohibitions on contemptuous and negative attitudes are even more important.

Prison officers are not permitted to “confine” children under the age of 18 to a cell or room as a punishment for a disciplinary offence. *Regimes for Prisoners Under 18 Years Old*, however, suggests that children can be “segregated” if necessary, though for the minimum amount of time. Officers are also permitted to use minimal force to control or restrain a child. Recent figures given in a Parliamentary Written Answer suggest that extensive use is made of “unfurnished cells” for under-18s by some young offender institutions – though not by all. Ashfield, Brinsford, Lancaster Farms, Thorn Cross and Werrington have not placed any children in such cells since confinement to cells was outlawed. The use of segregation is always included in the annual reports of Boards of Visitors. In one report, covering the 12 months up to end of September 2000, the Board’s Chair noted:

Some prisoners, especially juveniles, are spending too long on the [segregation] unit… For these prisoners there is no constructive regime and they spend long periods just lying on their beds doing nothing… We suspect this is a national problem and that further thought needs to be given by the Prison Service to the treatment of vulnerable prisoners.
Another Board of Visitors’ report was equally strong in condemning the use of segregation for disturbed children:

[The institution] is from time to time sent boys for whom they can do nothing except lock them up in segregation for an indeterminate period until a place for them can be found elsewhere. Over the past year several of these boys have been segregated for many weeks…The Board have found that they have had to authorise the segregation for some trainees against the Member’s better judgement.185

The Minister also confirmed in the Written Answer above that since April 2000, over 3,600 “control and restraint” measures have been used on under-18 year-olds and of these, 296 suffered injuries, including five fractures. Use of control and restraint also varied significantly between establishments, ranging from one to 450.186

Plainly it is possible simply not to use segregation as a means of control, and though – given the sometimes volatile temperaments of the children – it may not be possible to avoid the use of control and restraint, it is possible to organise an establishment so that it is used extremely rarely.

**Concerns expressed by the children**

“Officers have pushed me about for no reason”

“One screw comes in my pad and twists me and expects me to hit him back so all the screws have a go”187

“Officers call me thick and stupid”188

“Some staff are OK, but most would say ‘so what’?”

“A prison officer said he had had my mother – totally uncalled for”189

“The officers are violent up here – the screws are the biggest bullies”190

“Staff are always shouting and swearing at me”191

“A member of staff in the visiting room slapped me when I was getting searched”192
Concerns expressed by the Inspectorate in recent reports

Staff attitudes

Positive, caring and respectful staff attitudes towards children is overwhelmingly important to the success of the establishment, both as a functioning community and as a means of rehabilitating offenders. The Inspectorate is, rightly, very critical of institutions where the staff are openly contemptuous of the children:

There were clearly some potentially excellent staff but the potential will only be realised if managers at all levels set the right example in their attitudes and approach to young people. For example, staff overheard saying to young people “I think you’re confusing me with someone who cares” was not a demonstration of a professional approach. Other examples of flippant comments were presumably intended to show that young prisoners were not succeeding in getting staff down; in fact they were probably demonstrating the opposite.\(^\text{193}\)

On a number of occasions I have drawn attention to the malign influence of individual members of the Prison Officers Association (POA) in an establishment, who mount ritual and continuous challenge to legitimate management and present a consistent obstacle to planned and essential improvements to the treatment of and conditions for prisoners. Nowhere has this been more apparent or reprehensible than in [this institution] where, over the years, certain members of the POA have prided themselves on their negative attitude to the responsibility of management to manage, and the duty of care that all staff have towards those committed to their charge. I challenge them to state publicly whether or not they would be happy for their sons, or the sons of their friends or relations, to be submitted to the regime that they seem to think it appropriate to impose on vulnerable and impressionable young people.\(^\text{194}\)

We saw documentary evidence of a significant number of [allegations against staff] but were disturbed by what we found. A referral process was in place for the under-18s and some of the claims were investigated externally but the internal follow-ups were, in our view, too few and rarely considered the motivation for the child’s complaint. We were disturbed that many staff felt that there should be a return to the discipline charge of “making false and malicious allegations” which revealed widespread misunderstanding of the concept of child protection. Children and young people must feel able to complain and be confident that their concerns will be taken seriously. There was no real evidence that a culture and environment of mutual trust and respect existed between staff and young people at [this institution].\(^\text{195}\)

Even in establishments with much more positive staff-child relationships, the Inspectorate were still concerned that the staff adopt friendlier attitudes, for example recommending that one establishment cease calling the boys by their surname only\(^\text{196}\) and concerned in another that:

Some staff joined groups of boys at their dining tables. Others, however, were still ‘lining the walls’ and adopting a stance that implied that they were ready in the event of an incident.\(^\text{197}\)
Loss of privileges

Some sanctions for misbehaviour are perceived to be relatively non-punitive, such as repair of or payment for damage, or loss of privileges. However where loss of privileges is concerned, there is a danger that those who continually misbehave will experience an unacceptable degree of deprivation, sometimes for long periods. The point of privileges is that children have opportunities of earning luxuries by good behaviour, not that they are punished for bad behaviour. The system for allocating privileges in prison is the grading of inmates according to their behaviour. Three grades exist – basic, standard and enhanced. Basic level is the lowest. It is imperative that children’s treatment on this level does not fall below a reasonable standard, and there must never be an expectation that a proportion of the population will be living in basic conditions:

The [PE] scheme was well attended with 71% of the population enjoying the classes… All the young prisoners and trainees were encouraged to attend with the exception of those on the basic level of privileges and held in the care and separation unit (CSU).  

Most managers and staff admitted that the incentives and earned privileges scheme [in the unit] was in a mess and badly needed reform. We endorse the positive consideration being given to developing effective rewards for responsible behaviour, including community visits and Community Service Volunteer placements. We had major concerns however, about the proposal to convert one of the units into a ‘basic unit’. In our experience location based incentives schemes are not the most effective use of available accommodation because if there are vacancies on the basic unit they will have to be filled, if not by those who merit basic status then by others.

Young prisoners were informed about the IEP (Incentives and Earned Privileges) system during their induction and given detailed written information in their induction packs. There were also notices on display on residential units. Despite this we spoke to many young prisoners who had either not read or not understood the rules and regulations of the IEP system. Two prisoners told us that they were unable to read… We also found evidence of the scheme not being administered in accordance with establishment’s own procedures. For example, verbal warnings were issued which had not been recorded and there had been incorrect accumulation of warnings or strikes leading to demotion to a lower level of the IEP scheme. Of greater concern, was our discovery of one young prisoner who had been placed on basic regime and had not been subject to review within the required timescale. This prisoner could not read and in our view was being unfairly treated.

Punishments

The Young Offender Institution Rules set out precisely what sanctions are permissible (see below). In recent years these have been amended to prohibit under-18 year-olds being “confined to a cell or room”, though they can still be removed from their living unit and from non-educational activities for up to 21 days. In addition, days in custody cannot be added for misbehaviour if the child is serving a short Detention and Training Orders. Whenever specific sanctions are prohibited, staff who are over-reliant on punishment tend to believe – as some teachers did when school corporal punishment was banned – that the institution will collapse:

Staff made no secret of the fact that they were particularly concerned over the “watering down” of discipline. The inability to extend the stay of juveniles in custody or use isolation as a punishment could give licence for bad behaviour.
One response is to try to introduce new punishments rather than encourage a less punitive regime. The following establishment, catering only for under-18s, raises cause for concern:

The Segregation Unit had been renamed the Special Training Unit (STU)... In its new guise as a 'Training' Unit, the STU did not provide any training. We looked at the number of times the unfurnished cell had been used. In the year 2000, this amounted to 33 occasions, of which seven were overnight. In January and February 2001, it was used three times, none was overnight. In the earlier part of 2000, this cell was often used for trainees who had threatened, or were preparing to self-harm.702

The inspectors also commented on a punishment which adversely affected both the young person’s rehabilitation and also other people:

We considered that the restriction whereby visits were limited to 30 minutes duration for young prisoners on basic level was inappropriate for maintaining family ties. Many young people at [this institution] had been placed there at some considerable distance from their homes, and it was unreasonable to expect family members and friends to undertake long journeys in order to have a visit lasting only 30 minutes.203

Use of force

Officers are entitled to use necessary force and restraints, though they may not deliberately provoke an inmate or use anything other than handcuffs on under-18s. “Control and restraint”, though sometimes necessary, is usually both a humiliating and risky practice - the following table, covering an establishment with a population of under- and over-18 year-olds, shows what a high proportion of injuries are caused by staff use of force.204

<table>
<thead>
<tr>
<th></th>
<th>Assault</th>
<th>Control and Restraint</th>
<th>Fights</th>
<th>Self Harm</th>
<th>Sport</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>June</td>
<td>15</td>
<td>19</td>
<td>82</td>
<td>39</td>
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<td>Oct</td>
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<td>22</td>
<td>34</td>
<td>9</td>
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<td>8</td>
</tr>
</tbody>
</table>

And in two other institutions the inspectors registered their concern about what they saw as excessive control:

...The level of assaults was disturbing and the use of control and restraint techniques alarmingly frequent. We received a high number of complaints from young prisoners that they felt intimidated by staff, and in particular that they were being bullied and subjected to a range of informal and illegal punishments. In an inspection lasting only a few days it was not possible to validate such allegations but these complaints were expressed right across the establishment.205

“...we found a set of ratchet handcuffs in a leather case pinned to the wall of every unit office. We were told that this was in case anyone had to be restrained using C&R techniques, when they would apply handcuffs before walking the individual to the Segregation Unit. There was palpably no need for such restraints and it was dangerous to have displayed them in such a way.206
The inspectors now routinely administer questionnaires to a significant proportion of the inmates. One set of questions concerns whether the respondent has been insulted or has been kicked, hit or assaulted either by other prisoners, or – rather euphemistically – “by anyone else”, which presumably means staff members. While allegations about staff assaults are almost always few, two or three at the most, it is alarming to think that any child is hit by a member of staff. Some establishments had depressingly high proportions of children stating that “others”, i.e. officers and staff, had made insulting remarks about them (one unit as high as 40%).

**What their rights are**

**International law**

*UN Convention on the Rights of the Child, Article 37*

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment…

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age…

*European Convention on Human Rights, Article 3*

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 66*

Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

**In this country**

*Young Offender Institution Rules, Rule 6 (privileges), Rule 44 (order and discipline), Rule 49 (removal from association), Rule 50 (use of force), Rule 60 (sanctions)*

**Privileges**

There shall be established at every young offender institution systems of privileges approved by the Secretary of State and appropriate to the classes of inmates thereof and their ages, characters and circumstances, which shall include arrangements under which money earned by inmates may be spent by them within the young offender institution.

Systems of privileges …may include arrangements under which inmates may be allowed time outside the cells and in association with one another, in excess of the minimum time which, subject to the other provisions of these Rules apart from this rule, is otherwise allowed to inmates at the young offender institution for this purpose.

Systems of privileges …may include arrangements under which privileges may be granted to inmates only in so far as they have met, and for so long as they continue to meet, specified standards in their behaviour and their performance in work or other activities….
Maintenance of order and discipline
Order and discipline shall be maintained, but with no more restriction than is required in the interests of security and well-ordered community life.

Notwithstanding [this]…, regimes may be established at young offender institutions under which stricter order and discipline are maintained and which emphasise strict standards of dress, appearance and conduct; provided that no inmate shall be required to participate in such a regime unless he has been first assessed as being suitable for it and no inmate shall be required to continue with such a regime if at any time it appears that he is no longer suitable for it.

…whether an inmate is suitable for a stricter regime is to be assessed by reference to whether he is sufficiently fit in mind and body to undertake it and whether, in the opinion of the Secretary of State, experience of the regime will further his rehabilitation.

In the control of inmates, officers shall seek to influence them through their own example and leadership, and to enlist their willing co-operation.

Removal from association
Where it appears desirable, for the maintenance of good order or discipline or in his own interests, that an inmate should not associate with other inmates, either generally or for particular purposes, the governor may arrange for the inmate’s removal from association accordingly.

An inmate shall not be removed under this rule for a period of more than three days without the authority of a member of the board of visitors or of the Secretary of State…

Use of force
An officer in dealing with an inmate shall not use force unnecessarily and, when the application of force to an inmate is necessary, no more force than is necessary shall be used.

No officer shall act deliberately in a manner calculated to provoke an inmate.

Governor’s punishments
If he finds an inmate guilty of an offence against discipline the governor may… impose one or more of the following punishments:
(a) caution;
(b) forfeiture for a period not exceeding 21 days of any of the privileges under rule 6;
(c) removal for a period not exceeding 21 days from any particular activity or activities of the young offender institution, other than education, training courses, work and physical education in accordance with rules 37, 38, 39, 40 and 41;
(d) extra work outside the normal working week for a period not exceeding 21 days and for not more than two hours on any day;
(e) stoppage of or deduction from earnings for a period not exceeding 42 days of an amount not exceeding 21 days’ earnings;
(f) in the case of an offence against discipline committed by an inmate who was aged 18 or over at the time of commission of the offence, other than an inmate who is serving the period of detention and training under a detention and training order pursuant to section 100 of the Powers of Criminal Courts (Sentencing) Act 2000, confinement to a cell or room for a period not exceeding seven days;
(g) removal from his wing or living unit for a period not exceeding 21 days;
(h) in the case of an inmate who is a short-term or long-term prisoner, an award of additional days not exceeding 42 days.
If an inmate is found guilty of more than one charge arising out of an incident punishments under this rule may be ordered to run consecutively, but, in the case of an award of additional days, the total period shall not exceed 42 days and in the case of an award of cellular confinement the total period shall not exceed seven days.

An award of a caution shall not be combined with any other punishment for the same charge.

In imposing a punishment under this rule, the governor shall take into account any guidelines that the Secretary of State may from time to time issue as to the level of punishment that should normally be imposed for a particular offence against discipline.

Regimes for Prisoners Under 18 Years Old, Sections 7.3 and 7.5
(i) Governors must establish and promote standards of behaviour for the young people which require more than a conformity to institutional rules and which nurture self-responsibility and good neighbourliness in every young person.
(ii) Every young person must have explained to them the standards of behaviour that will be expected of them, and these must also be expressed in a clear, succinct written form.
(iii) Governors must construct and operate an incentives and earned privileges scheme which is appropriate for the age group by offering realistic and motivating incentives which nurture and reward good behaviour, and is approved by the Area Manager. A list of permitted sanctions must be published and no other ‘unofficial’ sanctions are permitted.
(iv) Governors must operate an anti-bullying strategy which the staff, young people and visitors understand and in which they have confidence, and is approved by the Area Manager.

(i) Governors must investigate all reportable incidents of bad behaviour and ensure that those identified as having caused it are dealt with in the way which most effectively responds to their actions and which is most effective in preventing its repetition.
(ii) Governors must enable staff to manage bad behaviour in ways which most effectively discourages further bad behaviour and encourages the promotion of self-responsibility, understanding and good behaviour.
(iii) Governors must ensure that sanctions or measures which deal with the short term problems of misbehaviour are supported by positive action which tackles the causes of misbehaviour and helps correct it.
(iv) Force must only be used as a last resort and no more force than is necessary may be used. Only approved techniques may be used.

Notes:
Central to the revised training in and use of C&R is the use of any force, and of wrist locks in particular, as a last resort. The revised C&R syllabus emphasises the importance of deescalating violent situations by using interpersonal skills. Good C&R practice critically involves the effective use of interpersonal skills.
Order and Control Unit advise that alternatives to Control and Restraint techniques e.g. PRICE are inappropriate in their current form for use with under 18s in our type of establishments. Part of the statutory refresher training must emphasise the sensitivities of using C&R on young persons.

Solitary confinement
Governors must strictly control the use of separation (segregating of young people) or removal from unit so that it is only used when necessary and that it is always accompanied by a strategy of intervention through advice and counselling, the objective of which is to return the young person to ordinary accommodation as soon as possible.
Note:
The traditional concept of ‘segregation’ plays no part in separating a young person when circumstances recommend. The use of GOAD and cellular confinement, in which exercise is the only ‘activity’ and when little or nothing is done to address the causes of segregation is inappropriate. While it will be appropriate to remove a young person from taking part in activities with others, it will be an exceptional measure. Furthermore, such separation must be accompanied immediately by work with the young person to enable their return to the full range of daily activities.

Staff powers: What we recommend their rights should be

- Discipline shall be maintained primarily by the encouraging and rewarding of good behaviour, rather than a focus on and punishment of bad behaviour.
- Children shall at all times be treated with respect for their human dignity, even when they are committing a disciplinary offence.
- Children who have not earned privileges through good behaviour shall not be denied a decent standard of life on the ‘basic’ level, including reasonable amounts of association with others, comfortable amenities and access to fresh air, education and recreation.
- Children should, so far as is possible, be involved in the development of codes of behaviour and rewards and punishments.
- Staff shall be trained in techniques for defusing and avoiding conflict, as well as in safe and minimal methods of restraint.
- Staff should be expressly prohibited from treating children with contempt.

Racism and other forms of discrimination

As can be seen from the quotations below, racism and other forms of discrimination are a common feature of most of the institutions, just as they are in the boys' lives on the outside. Institutions, particularly penal ones, are built on strict hierarchies which encourage a pecking-order approach to others and which require subservience from those without power to those with power. The regrettable human tendency to fear and hate the outsider is also nurtured in the street cultures of young offenders, with their gangs, “back-up”, hierarchies and vendettas, but it is clear that some officers are not immune from some of the grosser forms of prejudice.

Because of the disproportionate representation of black and other ethnic minorities in the criminal justice system and because of the blatantly racist attitudes of some staff, as well as some children, the Prison Service has rightly paid particular attention to strategies for tackling racism.

Racism is not the only form of discrimination. One of the Inspectorate’s standard questions to inmates asks whether they have been victimised “because of the area of the country you are from”. This often brings affirmative answers, sometimes many more than those who suffered racist victimisation, and of course it is as equally senseless and wrong to persecute those coming from Coventry or Carlisle as it is to mistreat those of another race or colour. And what about other forms of discrimination? The Inspectorate questionnaires do not address them, but no doubt boys with disabilities are victimised, and those who are gay, or fat, or small, or poor at sports. Numbers of disabled children in young offender institutions are not given, though one early Inspectorate report did mention a deaf child whose condition had not even been recognised on reception.
Strategies for dealing with racism and other forms of discrimination must – as with anti-bullying strategies generally – be maintained constantly, very visibly and on all fronts.

**Concerns expressed by the children in recent Inspectorate reports**

“I get treated unfairly because of my colour”

“Inmates have called me a paki because I look Asian and officers have told me to go back where I come from”

“I get grief because I come from Swansea”

“I come from an Irish background and I get called names”

“A teacher said to me, in this country when we say shut up it means be quiet”

“Welsh Fraggle, sheep shagger (given as examples of insulting remarks)”

“I have been hit by most of the English boys because I am Welsh”

“They are always making fun of me; the screws try and talk in a Welshy accent.”

“….the Manchester people stick together and gang up on everyone here”

“Certain officers are racist”

“Because I am a traveller, they call me names”

“Because I am Asian I hear some boys calling me ‘Paki’ or making stupid remarks”

“Those from Carlisle get trouble from the Scousers”

“I get racism every day at least more than five times every day since I have been here”

“There should be more Asian and blacks on the servery because all the whites don’t like us. Imagine if it was all Asians on the servery how would the whites feel?”

“I am from Coventry, they threaten to kick my head in. Coventry lads shouldn’t be sent here – some have hanged themselves”

“Lads call me nigger”
Concerns expressed by the Inspectorate in recent reports

The Inspectorate always examines “race relations” at each institution and studies the ethnic monitoring figures. In many places there were disproportionately high numbers of black children of Caribbean origin; sometimes there was an over-representation of boys of Asian origin. The Inspectorate questionnaire of 748 individual boys in YOIs shows 23% being of black, Asian or mixed race origin, which is well over the national proportions for this age group. Sometimes the figures would reveal potentially discriminatory treatment, for example:

Young adult prisoners and juvenile figures for September 2000 were as follows:
White 50% Black 37% Asian 8% Other 5%

- High number of black prisoners on [one] unit (anti-bullying programme)
- High number of white juveniles on [another] unit (Detention and Training Order wing)
- Low number of white prisoners on education
- Low number of black prisoners on laundry, reception and works (maintenance)
- High proportion of black prisoners given cellular confinement
- Ethnic monitoring of staff and attempts to recruit from minority groups in the surrounding population was also ongoing
- Total staff number was 528, of whom 49 were from ethnic minorities, or 9.28%.  

One important strategy for dealing with racism is to ensure that staff (including non-governing or officer staff) reflect an appropriate diversity of ethnic communities, although this is not easy in the more remote institutions:

There was one area in which …[the] institution fundamentally failed to pay respect to the needs and entitlements of those in its care. This was in the ethnic and gender mix of its governing and officer staff. Over 40% of those at [two of the units] came from ethnic minorities: yet we were told that there were only three women and one ethnic minority male amongst its governing and officer grades. We fully appreciate the difficulties in overcoming this problem in a remote rural location, and are pleased to note that the Prison Service appears to be responding to it with urgency.

Another is to ensure that minority religions are respected and appropriate arrangements are made for the children to practice their religion, that sexist and semi-pornographic material is not displayed or available (this is an occasional recommendation of the inspectors) and that appropriate food, shop products and clothes for children from ethnic minorities are available ‘as a matter of course’:

Questionnaires had also been sent out to all Muslim young prisoners. The Race Relations Liaison Officer had then met with them all. They raised the following issues: the insensitive searching of religious artefacts, not being woken up for Ramadan, and inappropriate icons in the room used for Muslim prayers i.e. posters of different religions. The latter problem had been partially resolved by giving the Muslim group a set of covers to hide the posters. We had concerns about the location of this meeting room, which was just outside the main Chapel and just off the main thoroughfare into the Education department.
We were concerned at the lack of products for ethnic minority young prisoners. We were told that if there were a request for a product they would endeavour to get it for the individual. We believe that ethnic minority young prisoners should not have to make special requests for products and recommend that an appropriate range of goods be offered as a matter of course.\textsuperscript{217}

But these strategies alone, though important, will not change attitudes, nor will they impact on the geographical tribalism that prevails in many institutions, such as is shown in this report:

It appeared that there were more problems between youngsters from different areas of the country e.g. Manchester and Liverpool, than there were between the races. Indeed according to answers given in the prisoner questionnaire 11\% had been victimised because of the area of the country they were from, whilst 3\% were victimised because of their race or ethnic background.\textsuperscript{218}

The inspectors suggest that young prisoners should be represented on the Race Relations Management Committee and that there should be “foreign nationals meetings” for the children and young people. Over and above this it is clear that discrimination is a distinctive feature of bullying and that the whole institution needs to give priority to identifying and challenging all forms of discrimination.

**Racism and other discrimination: What their rights are**

**International law**

*UN Convention on the Rights of the Child, Articles 2 and 30*

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 4 and 48*

The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.

Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.
In this country

*Young Offender Institution Rules, Rules 55, 32, 33 and 36*

An inmate is guilty of an offence against discipline if he –

…commits any racially aggravated assault;

…uses threatening, abusive or insulting racist words or behaviour;

…displays, attaches or draws on any part of a young offender institution, or on any other property, threatening, abusive, or insulting racist words, drawings, symbols or other material;

…The governor shall, if so requested by an inmate belonging to a denomination for which no minister has been appointed to a young offender institution do what he reasonably can to arrange for that inmate to be visited regularly by a minister of that denomination…

…A minister appointed to a young offender institution shall conduct Divine Service for inmates of his denomination at such times as may be arranged.

There shall, so far as reasonably practicable, be available for the personal use of every inmate such religious books recognised by his denomination as are approved by the Secretary of State for use in young offender institutions.

*Regimes for Prisoners Under 18 Years Old*

Mandatory requirements:

(i) Governors must implement the Service’s race relations policies and practices set out in PSO No. 2800.

(ii) Governors must implement the Service’s policy on disability. As set out in PSO 2855.

(iii) It is the responsibility of both Governors and their staff to demonstrate non racist and non sexist attitudes in their behaviour, their attitudes and their treatment both of each other, the young people in their care and anyone else with whom they have contact.

*Racism and discrimination: What we recommend their rights should be*

- Children who have experience of discrimination should be members of the Race Relations Management Committee.

- Children shall be entitled to have the requirements of their religion and culture met within the institution, including the provision of appropriate food, books, clothing, religious services, prayers and meetings with religious leaders.

- All establishments should strive towards a mixed staff group, positively reflecting the diversity of communities in wider society.

- All forms of prejudice and discrimination, whether exhibited by children or staff, shall be treated seriously.
Privacy

The invasion of privacy is probably the most depressing aspect of imprisonment, because so much is deemed necessary for security, child protection and anti-drug reasons. Letters are opened and read, visits are observed and overheard, bodies, possessions and rooms are searched, showers are under surveillance. Not only does the child have his or her privacy invaded, so too do all their visitors. One point of privacy is that it prevents public humiliation, which children are entitled to be protected from.

Concerns expressed by the young people in recent reports

“When some things you might want to write might be personal but the prison officers all read your letters so they know what you have said and sometimes tease you because of it”\(^{219}\)

Concerns expressed by the Inspectorate in recent reports

The Inspectors took care in identifying any unnecessary invasion of privacy, particularly when it concerned showering or going to the toilet. Clearly it is possible to combine supervision so as to prevent bullying and ensure respect for privacy:

Regrettably, some cells had been doubled to increase the capacity; in these cells there was a lack of decency and respect as there was no privacy screening around the toilet and insufficient furniture for two young people.\(^{220}\)

Some trainees had put towels up against the window since curtains were not allowed… The toilet was visible from the observation panel in the door and there was no privacy screen.\(^{221}\)

The showers had no doors on them and hence provided no privacy. Some trainees said they felt unsafe in the showers.\(^{222}\)

Even when potentially suicidal children need intensive surveillance it is still – indeed even more – important to respect their dignity by ensuring the maximum degree of privacy possible:

The four-bedded ward was often used for patients at risk of self-harm and was under CCTV surveillance. Unfortunately the toilet annex was not covered by CCTV and had to be closed if a patient posed a particular risk. Thus distressed young prisoners were forced at times to use pots with no privacy at all – a situation unlikely to help minimise feelings of depression.\(^{223}\)

A particularly crucial point, in terms of privacy, is when the child first arrives at the institution. Here he is likely to be searched and to have to answer a number of personal questions; he will also be feeling exposed as a ‘new boy’ and anxious not to show any weaknesses. The inspectors were therefore alert to unnecessary violations of privacy at reception:

Whilst we did not observe the strip-searching in Reception, we were told that all strip searches included asking the prisoner to squat. Such a provision is possible under Prison Rules.\(^{224}\)
Unless they arrived alone, the Reception Senior Officer still undertook the initial interviews in the hearing of other young people in the nearby holding rooms and the Reception orderly cleaner. We observed a member of staff interviewing a young prisoner at the same time as the boy stood behind a stable door for strip searching by another member of staff. Although there were plans to improve the layout in Reception to allow private interviews, induction staff interviewed new arrivals to one side or took them to rooms of the adjacent Health Care Centre for their first night interviews. The accommodation for strip searches had not been changed and robes were still not provided for use during this time.\textsuperscript{225}

The [reception] facilities did not allow for private conversations between a trainee and staff; except for the interviews with the nurse and the Senior Officer, all discussions between them took place in public areas.\textsuperscript{226}

Visits are another point when privacy is extremely important. The Young Offender Institution Rules require that visits should be overseen by officers and be within their hearing, but private conversations should not be overheard by other children and their visitors, nor should children who have had a failed visit, and may well be upset, be publicly exposed:

Visits took place in a dedicated room… The seats were arranged in rows down the length of the room and for every three visitor seats there was a low table opposite which was a seat for the young prisoner. Visitors’ seats ran in continuous rows without a break which meant that they were all seated shoulder to shoulder. This made privacy impossible and created a very claustrophobic atmosphere.\textsuperscript{227}

Trainees were brought into the visits area to wait for their visitors to arrive. If the visitors didn’t arrive they could be left sitting there for some considerable time before being taken back to the wings. Structural work was taking place to create a separate waiting area for trainees. This would be far preferable to what could be a deeply humiliating or upsetting experience for some trainees.\textsuperscript{228}

**Privacy: What their rights are**

**International law**

*UN Convention on the Rights of the Child, Article 16*
No child shall be subjected to arbitrary or unlawful interference with his or her privacy… The child has the right to the protection of the law against such interference or attacks.

*European Convention on Human Rights, Article 8*
Everyone has the right to respect for his private… life…

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of health or morals, or for the protection of the rights and freedoms of others.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 31, 32, 34 and 35*
Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.
The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy.

Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy.

The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected.

*UN Standard Minimum Rules for the Administration of Juvenile Justice (‘The Beijing Rules’), Rule 8*

The juvenile’s right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.

In principle, no information that may lead to the identification of a juvenile offender shall be published.

**In this country**

*Young Offender Institution Rules, Rules 8, 9, 11, 16, 45, 46, 54 and 72*

…A written request or complaint [to the governor or Board of Visitors] may be made in confidence.

…Every visit to an inmate shall take place within the sight of an officer or employee of the young offender institution authorised for the purposes of this rule by the governor (in this rule referred to as an “authorised employee”), unless the Secretary of State otherwise directs, and for the purposes of this paragraph a visit to an inmate shall be taken to take place within the sight of an officer or authorised employee if it can be seen by an officer or authorised employee by means of an overt closed circuit television system.

…Subject to rule 13 [qualified confidentiality of the information], every visit to an inmate shall take place within the hearing of an officer or authorised employee, unless the Secretary of State otherwise directs.

…. Subject to any directions given by the Secretary of State, the governor may make arrangements for any communication by an inmate or class of inmates to be intercepted in a young offender institution by an officer or an employee of the young offender institution authorised by the governor for the purposes of this rule on the same grounds as for restriction of communication quoted above (referred to in this rule as an “authorised employee”) if he considers that the arrangements are -

(a) necessary on grounds specified [below]; and

(b) proportionate to what is sought to be achieved.

Any communication by an inmate may, during the course of its transmission in a young offender institution, be terminated by an officer or an authorised employee if he considers that to terminate the communication is -

(a) necessary on grounds specified in [below]; and

(b) proportionate to what is sought to be achieved by the termination.

The grounds referred to [above] are -

(a) the interests of national security;

(b) the prevention, detection, investigation or prosecution of crime;
(c) the interests of public safety;
(d) securing or maintaining security or good order and discipline in the young offender institution;
(e) the protection of health or morals; or
(f) the protection of the rights and freedoms of any person.

The legal adviser of an inmate in any legal proceedings, civil or criminal, to which the inmate is a party shall be afforded reasonable facilities for interviewing him in connection with those proceedings, and may do so out of hearing of an officer.

A person being taken to or from a young offender institution in custody shall be exposed as little as possible to public observation and proper care shall be taken to protect him from curiosity and insult.

…An inmate shall be searched in as seemly a manner as is consistent with discovering anything concealed.

No inmate shall be stripped and searched in the sight of another inmate or in the sight of a person of the opposite sex.

Without prejudice to his powers to make arrangements for the supervision of inmates in his custody, the governor may make arrangements for any inmate to be placed under constant supervision by means of an overt closed circuit television system placed in a cell, dormitory or other place in the young offender institution if he considers that -

(a) such supervision is necessary for -
   (i) the health and safety of the inmate or any other person;
   (ii) the prevention, detection or prosecution of crime; or
   (iii) securing or maintaining security or good order and discipline in the young offender institution; and

(b) it is proportionate to what is sought to be achieved.

No officer shall make, directly or indirectly, any unauthorised communication to a representative of the press or any other person concerning matters which have become known to him in the course of his duty…

Privacy: What we recommend their rights should be

- Children should have a right to as much privacy as is consistent with health and safety and the prevention and detection of crime. Where their privacy has to be invaded, this should be done with maximum respect to the human dignity of the child, and his or her visitors.

- Internal body searches should only occur if there are substantial grounds for believing the child may have concealed something.

- Children should be able to have:
  - a shower and go to the toilet in private
  - a place to keep personal possessions in private, including diaries
  - access to confidential counselling and advice in private settings
Time out of cells (including police and “cellular vans”) and freedom of association

Perhaps the greatest blot on the recent imprisonment of children is the length of time many of them had to spend in their cells – not long ago sometimes only getting out for an hour or two in a day. Nothing is less likely to achieve rehabilitation: the effect of this double loss of liberty is wholly counterproductive, causing only boredom, frustration and depression. Rightly the new Prison Service Order Regimes for Prisoners Under 18 Years Old has required minimum periods of 10 hours a day, and recommended periods of 14 hours, out of cell.

Children have a human right not only to minimum levels of incarceration but also to ‘freedom of association’ – in other words, to be with people they want to spend time with. This implies periods of time when their focus is not on education or training, but on social intercourse – and of course, meeting, talking and sharing leisure pursuits with others is a very important part of socialisation and child and adolescent development.

The journey to the young offender institution is not directly a part of this report. However the appalling experiences some children experience in police cells awaiting court and Youth Justice Board placement decisions and in the contracted-out “cellular vehicles” which ferry children all over the country can be highly traumatic and scar their initial experience of the establishment.

Concerns expressed by the Inspectorate in recent reports

Despite the edicts of PSO Regimes for Prisoners Under 18 Years Old (see below) the Inspectors found that a great many children were still spending too long in their cells. The recent report A Second Chance, on education in young offender institutions, notes that:

At best, most establishments only just meet the modest target of ten hours set out in PSO 4950 [Regimes for Prisoners Under 18 Years Old] on weekday, although far too often this was only available to the limited number of young people on the enhanced level of the Incentive and Earned Privileges scheme, or it was eroded by cancellation of association because of staff shortages. The amount of time spent out of cell at weekends and holidays was far worse, with association after 6.00 pm rarely, if ever, on offer, and sometimes not available either in the afternoons.

Staff shortages have a direct impact on the lives of the children:

On unit one, evening association was frequently only available to half the wing because of staff shortages… [on unit two] in theory association could be had every week day evening and during the day and evening on weekends. In practice this was determined daily by staffing levels… Juveniles we spoke to were generally content with this arrangement although they said that they rarely knew, until the time for association came, whether they would be out at evening… 26% [of those interviewed] said they spent less than four hours out of cell a day.

The regime was limited to basic education in the mornings or afternoon periods, daily exercise and the PE programme. Periods of exercise in the fresh air were taken on a large tarmac area outside the unit. Association took place four nights a week and at weekends but only half the unit was allowed out at any one time. Access to television was in a general area on the ground floor and the noise generated by this and any table tennis or pool games was overwhelming. The effect of the regime meant that young
Remand prisoners got out of their cells for some of the day every day but also spent a lot of time locked up especially in the evenings and at weekends. This produced boredom and an understandable sense of frustration. The only employment available was general cleaning tasks and working on the servery. These posts were valued by the young prisoners for the comparative freedom they allowed.

In the case of unsentenced juveniles on H Wing, there were only 10 education places available to the 47 young people on the wing at the time of the inspection. The only daily purposeful activity on offer was one hour of gym early in the morning. This meant that with just three hours afternoon association, young people could be locked in their cells for almost 20 hours per day… For the 100 or so sentenced but unemployed young people [under 18] on G, J and K wings things were little better. Inspectors were surprised that given the space on J and K wings, steps had not been taken to increase the hours out of cell, if only marginally, by developing communal dining as is increasingly and successfully happening in other similar establishments.

On one morning on B wing during the inspection, apart from one class in education, most of the juveniles were locked in their cells. The other exceptions were four servery cleaners and another couple of volunteer cleaners who had association on the ground floor of the wing once the wing cleaning work had been completed. The daily routine for this last group provided reasonable time out of cell but time out of cell for other juveniles and the dearth of association facilities should be improved.

The sections above on health and mental health note that ill children may have their liberty unnecessarily restricted. In addition the inspectors found that sometimes other groups of children were denied association, for example because they were on a low level of a privileges scheme, on remand, on reception or had been deemed to be vulnerable:

On B wing, apart from two vulnerable boys, the remainder went to the Gymnasium each morning for over an hour after 8.45am. Frequency of PE for vulnerable children should be increased.

Those who came directly onto the unit from court or reception were taken… for induction. There was an incentive scheme. No juveniles were on the basic level, ten were on enhanced and the remainder were on standard. During the evening only those who were on enhanced were allowed out on association. Those who attended purposeful activity during the day and were not on enhanced were therefore denied access to shower and the use of the phone. Staff stated they attempted to rectify this, if it were possible.

We were assured the normal routine for the [group of remanded] juveniles was, however, very limited. Those who were not given purposeful activity places were only allowed one or two hours out of their cell each day and even then not given access to fresh air. Four PE sessions were offered to these juveniles each week. On one day of the inspection, 11 of the 30 were on education and seven had declined to attend. The only others allowed out of their cells other than for association were four cleaners and four servery workers.
We remain concerned that new arrivals to [a unit] were locked in their cells for very long periods. They should not be.\textsuperscript{237}

As is reported in the section on education and rehabilitation, resources for education, training and work are sometimes insufficient and this, too, can lead to pointless hours spent inside a cell:

The most significant feature of work and training for young prisoners at [the institution] was that there was not enough of it…We frequently found young prisoners who were locked up on the wings because there was insufficient work. Some of these were on remand and therefore work was voluntary but, in any event, the type of workshops already described did not lend themselves to a remand population.

We noticed during our inspection of the workshops that most were under utilised. Instructors told us that youngsters had been required elsewhere for courses or interviews. Best use of limited resources was not being made. We have already mentioned that numerous youngsters remained locked up for most of the day and yet at the same time we found that others were required to be in two centres of activity at the same time.\textsuperscript{238}

“Freedom of association” is a right not a compulsion, however, and the children should be able to spend this time on their own in solitary pursuits if they wish. The Inspectorate pertinently asks:

There was a limit to the amount of time that could be spent on telephone calls or showering. Having fifty or sixty adolescents milling around two or three pool tables was not very constructive and also potentially unsafe… Did most people who have their freedom in the community actually choose to spend 14 hours per day in groups?\textsuperscript{239}

The journey to the establishment has long been a cause for concern for the Inspectorate. In \textit{Young Prisoners: A Thematic Review} the Chief Inspector described current arrangements:

All escorting of prisoners from court has now been contracted out using contractors’ cellular vehicles to transport young prisoners in the interests of improved security. Each cubicle in these vehicles is about the size of a telephone box and contains nothing more than a bench seat and a small window. My team found many examples of children and young people locked in these cramped conditions for hours while awaiting delivery to the establishment to which they are being sent.\textsuperscript{240}

This report was in 1997, but two years later, in a report on an institution which no longer holds juveniles, the Chief Inspector wrote:

…on behalf not only of [this establishment], but of every other Young Offender Institution in the system, I hope that urgent action will be taken to address the problem of the state of the cellular vans in which young people are transported around the country. There is no more excuse for them to be filthy and insanitary than for a cell to be in the same state, and I hope that contractors will, in future, be penalised for allowing them to be so.\textsuperscript{241}
But the inspectors continued to find problems with the cellular vans. One establishment in particular was found to be suffering from appalling arrangements for bringing the children to start their sentence:

We were also concerned that on many occasions trainees were arriving having spent an excessive amount of time en route from the court, in which they had been sentenced, to the establishment. We have commented on this problem in previous reports. Young prisoners and juveniles were being sentenced perhaps in the morning but then were spending the whole day either in court cells, or travelling around on cellular vehicles from court to court picking up other young prisoners from other courts and for other establishments. On many occasions those youngsters who had been sentenced perhaps at 11am were not arriving at the establishment until just before 7pm. Staff explained to us how it was common for a van containing several young prisoners to arrive just before their reception cut-off time of 7pm; indeed on the night that we inspected the reception procedures, six young prisoners/trainees were received at approximately 6.40pm.

During the six months prior to the inspection there had been 34 occasions when escort contractors arrived with several youngsters after the cut-off time, the latest of these being at 7.46pm... The knock-on effects of such late receptions were clear. Youngsters were very tired, and some as young as 15 were having their first reception into the establishment delayed by many hours. They were unable to contact their families (according to the questionnaire only 33% of juveniles and 42% of YPs were given the opportunity to make a phone call on their first day...), settle down into the wing that they were to be located in, or be adequately risk assessed on their arrival. The late arrival of youngsters into the establishment must be reduced and kept to an absolute minimum...We urge that the CCG section of the Prison Service resolve this problem with escort contractors urgently.242

The inspectors reported that remanded juveniles “complained vociferously of the escort arrangements for transportation to [the institution] and how they had spent up to eight hours in vans or sitting in a series of court or police cells”.241 On their visit they observed the reception of “two bewildered 15 year olds, one in custody for the first time” who had spent a weekend in police cells and had been remanded at 11.30 that morning from court but had not arrived until 6.45 that evening:

Staff told us that this was an early arrival for this particular court run. Their reception process was further delayed because their places had not been booked and registered by the court or the YOT team through the YJB placement service in the way that is now required. This was something that was happening more often than not, Reception staff told us.

The way in which we observed two frightened and traumatised 15 year olds to be treated by the court and their escort and admission arrangements as a whole confirmed what the young people had told us when we had met with them. Staff also told us that there were examples of extended delays in arrival, sometimes much worse than we had observed, several times a week. On one occasion the previous week, a 16 year old had completed his court appearance at 6.30 pm and had not arrived at [the institution] until 7 pm the following day. Radical changes were therefore required in the escort and reception arrangements operating for juveniles/trainees.244
This was not the only young offender institution to face these difficulties; the inspectors also noted the distressing experiences of children en route to establishments elsewhere:

We were concerned about some aspects of the service provided by the escort contractor over which the prison had no control. We were alerted to delays, in one case of three weeks, in returning a young prisoner from court due to the unavailability of transport provided by the escort contractor. Consequently, prisoners were informed when they left the establishment to go to court that they could not be given any indication of an estimated return date, and this bore no relationship to the court proceedings… Even more disturbingly, young prisoners who spent many hours travelling in cellular vehicles were not given the opportunity to go to the toilet and were instead offered a property bag, which some were desperate enough to use. Whilst acknowledging that this was beyond the control of the prison, this was degrading and totally unacceptable treatment.

Staff were concerned at the distressed state in which some children arrived. Coming direct from court after long journeys, they had frequently been previously held overnight in police stations. During this inspection, we were told that one child had not arrived because he had overdosed whilst held overnight by police.

Reception staff told us that some new arrivals had to wait in cellular vans for inordinate amounts of time if Reception was full.

The escort staff told us the journeys were very noisy with continuous shouting between the trainees. We were concerned that this could be an unsettling or intimidating experience for some, especially those entering custody for the first time and may affect how they present and are able to respond on reception.

An agreement had been reached with Group 4 that no new receptions would be accepted after 7.00 pm. However, monitoring of 125 arrivals since 8th January 2001, showed that 35% of trainees were still arriving at [the institution] after 6.00pm…Police cells were regularly used to accommodate trainees overnight or over the weekend.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited the United Kingdom in February 2001 and formally recommended that “the United Kingdom authorities review current arrangements for the transport of prisoners, particularly children.” It noted that: “While the cubicles in the vans used for this purpose were quite adequate for short journeys (the cubicles were well-lit and ventilated, each measuring 70 x 81 cm), they were not suitable for the transport of prisoners – especially children – when the journey was lengthy.” (Para. 30).
Time out of cells: What their rights are

International law

UN Convention on the Rights of the Child, Article 15
States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

European Convention on Human Rights, Article 11
Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

UN Rules for the Protection of Juveniles Deprived of their Liberty
The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

In this country

Regimes for Prisoners Under 18 Years Old, Sections 7.2 and 8.1

Mandatory requirements:
The daily routine must provide:
a. at least 10 hours out of cell time, rising to 14 hours as resources allow;
b. six hours purposeful activity;
c. ensure a minimum of 4½ and a maximum of 5½ hours between breakfast and lunch, and between lunch and tea and no more than 14 hours between tea and breakfast the next day.
Each young person’s attendance at training activities… and access to recreational and other facilities must be time tabled to ensure:
a. a balance between the sedentary and active and between individual and group activities is maintained within the day and over the course of the week and during the duration of their period in custody; and that,
b. periods of activity are of optimal length taking into account the nature of the activity and the tendency for this age group to benefit most from shorter varied sessions.
The establishment’s programme of activities and routines must be well-integrated and minimize the disruptions which can be caused by scheduling different activities at the same time without providing suitable alternatives for which there are incentives to attend.

The establishment must offer opportunities for each young person to develop socially and develop interests by providing a range of recreational opportunities, including association, suitable for the age group which are appropriately led, supervised and structured.
Each young person must spend on average at least 30 hours per week engaged in purposeful activity. There must be at least 10 hours unlock each day, rising to 14 hours as resources allow, which will include 6 hours of education, training, or work activity.

**Time out of cells: What their rights should be**

- All the children in the establishment, regardless of their status, should have a basic minimum right to spend at least 14 hours out of their cell each day, with at least 30 hours per week of this spent on purposeful activity.
- No child shall be forced be out of his cell during periods for recreation and association.
- Mealtimes shall be taken with staff and children sitting together.
- Children should not be conveyed to the establishment in cellular vehicles. They should be taken directly to and from court in ordinary cars or vans. They should not be held in police cells because of administrative delays.
- Children being transported to a locked establishment should be provided with regular refreshments and toilet breaks.

**Fresh air and exercise**

International treaties on human rights do not identify a “right to fresh air” yet most of us consider being outdoors essential for mental and physical well-being, and most parents fret if their children spend even a day without fresh air or exercise. Fresh air and exercise are not the same thing, of course, but are so closely linked it is purposeless to separate them. All children in custody should have both. Adolescent boys, particularly, need opportunities to be physically active, and all humans need to feel the weather and look at the sky and the earth. There are still too many children serving custodial sentences whose basic human needs are not met in this respect.

**Concerns expressed by the Inspectorate in recent reports**

The Inspectors, rightly, noted and expressed serious concern if they found boys had not been getting fresh air or exercise:

Just over half of the juveniles sampled (51%) said they did not get outside exercise; and 22% did not know whether, and how frequently, exercise in the fresh air was available to them.

As things stood we were greatly concerned that most youngsters had little or no exercise in the fresh air.

30% of juveniles questioned said they didn’t have any exercise at all in a week.

Trainees did not have formal exercise periods and for many, especially wing based workers, this meant limited time in the fresh air, other than when walking from one part of the establishment to another.
We were concerned that, although attendance at off wing activities meant a walk through the establishment grounds to Education, Workshops, Chapel, Gym, Visits etc., there were no formal wing exercise periods. It might have been possible for an individual who was not employed, who did not use the Gym or go to Chapel, and who did not get visits, to remain indoors without any time outside in the fresh air for their whole period of time in custody. This was also confirmed by the prisoner questionnaire…We saw some wing exercise taking place but staff said that it was not a daily occurrence; it had been arranged at their discretion. They reported that other staff in the establishment had complained when they had arranged evening exercise previously and managers had chastised them for doing so.

**Fresh air and exercise: What their rights are**

**International law**

*Standard Minimum Rules for the Treatment of Prisoners, Rule 21*

Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 47*

Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities…The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

**In this country**

*Young Offender Rules 2000*

Provision shall be made at a young offender institution for the physical education of inmates within the normal working week, as well as evening and weekend physical recreation. The physical education activities shall be such as will foster personal responsibility and an inmate’s interests and skills and encourage him to make good use of his leisure on release.

Arrangements shall be made for each inmate…to participate in physical education for at least two hours a week on average or, in the case of inmates detained in such institutions or parts of institutions as the Secretary of State may direct, for at least 1 hour each weekday on average, but outside the hours allotted to education… in the case of an inmate of compulsory school age.

*Regimes for Prisoners Under 18 Years Old, Section 8.5*

The PE programme must help young people to use their leisure time more constructively and to help them develop skills and knowledge that will inform choice and assist them to gain employment on release.

Provision must be made for every young person to attend seven hours PE each week on average, and a minimum of five hours for each individual.
The programme must be divided into three phases:

a. Phase 1 - induction, assessing the individual’s needs, developing an action plan, working towards nationally recognised Records of Achievement.

b. Phase 2 - nationally recognised coaching and teaching awards that are targeted to the constructive use of leisure time.

c. Phase 3 - leadership training, outdoor pursuits, and community work using the skills and knowledge already learned.

Physical Education programmes must be committed to addressing criminogenic factors, focusing on the following elements:

a. self awareness/self esteem
b. communication skills
c. interpersonal skills
d. negotiation skills
e. reviewing skills
f. controlling aggression
g. exploring and managing feelings.

Fresh air and exercise: What their rights should be

Children in custody shall have the right to:

- Spend time in the fresh air every day, weather permitting.
- Opportunities and facilities for enjoying physical exercise and outdoor activities every day.

Recreation

The Young Offender Institution Rules and Regimes for Prisoners Under 18 Years Old both emphasise the importance of physical education, and the time spent on sports and in the gym is regarded by many children in young offender institutions as highly enjoyable. However this will not be the view of all children. But there are few rights for those who are not sporty. The Rules allow a right to library books, and Regimes for Prisoners Under 18 Years Old requires that “a range of recreational opportunities” should be offered, but that is about it. This is not surprising. The public by and large hopes that young offenders will not enjoy their stay in custody, and governments have tended to comply in satisfying these hopes.

A moment’s reflection will show how short-sighted such a policy is. Finding these children legal recreations that they enjoy would do more to deter them from crime than almost anything else. Most of them have voted with their feet over formal education, so hopes of getting them restarted on academic work may be pretty forlorn. Vocational training is obviously important, but, even presupposing a job follows, they will still have gaps to fill in evenings and weekends.

Even apparently passive leisure pursuits, like watching television, listening to music or reading a magazine or newspaper, have an important role to play – not least in warding off depression and boredom. Children stuck all evening in a cell with a television may also, by default, watch programmes that introduce them to new ideas and possibilities. Those who feel that children should suffer as much as possible for their crimes should still ask themselves: which would I rather a young offender who lived on my road did inside - lie on his bed planning crimes to commit when he is released, or watch a television programme about DIY, or ancient Egyptians, or badgers?
Concerns expressed by the Inspectorate in recent reports

The Inspectorate did not express many concerns about the recreational opportunities offered by the young offender institutions, presumably because the children did not have express rights in this respect.

The recent reports do, however, document the advent of televisions in cells. They noted that the staff in one establishment were “concerned that the planned introduction of televisions into cells might damage the overall ethos within the prison.” In another they commended the results of doing so:

These developments [improving induction and reducing levels of bullying] had also been helped by the introduction of in-cell television which provided a much appreciated privilege. For those new to the establishment undergoing their first few days it helped them to cope with their isolation. It meant young prisoners did not have to enter darkened TV rooms with a consequential threat of bullying and also gave the incentives scheme real truth, as poor performance meant the removal of the television.

On the other hand they noted problems with not having in-cell television:

We saw no trainees watching the landing television; many complained they could not hear it due to the high level of noise on the wing.

In an early report the inspectors noted that in one establishment children routinely lost radios of a certain size that had been bought for them by their families in another lock-up because they had to earn the larger through the privilege system though “many young prisoners’ families can ill afford the money to purchase acceptably sized replacement radios for them”, and they recommended that there should be nation-wide consistency about the size of radio allowed.

The inspectors argued:

Radios are important in helping deal with isolation during periods of being locked in the cell and keeping in touch with developments in the world generally.

Recreation: What their rights are

International law

*UN Convention on the Rights of the Child, Article 31*
States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 47*
Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should ensure that each juvenile is physically able to participate in the available programmes of physical
education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

In this country

Young Offender Institution Rules, Rule 26
A library shall be provided in every young offender institution and, subject to any directions of the Secretary of State, every inmate shall be allowed to have library books and to exchange them.

Regimes for Prisoners Under 18 Years Old, Section 7.2
The establishment must offer opportunities for each young person to develop socially and develop interests by providing a range of recreational opportunities, including association, suitable for the age group which are appropriately led, supervised and structured.

Recreation: What we recommend their rights should be

- Children should have access to a wide range of recreational opportunities, including drama, music, art, board and computer games, collecting, pet-keeping, model-making, indoor and outdoor sports such as pool, table tennis, basket-ball and skateboarding as well as traditional sports.
- Children should have an in-cell television during the period of reception and induction, and should be entitled to one as an early privilege.
- Children should be entitled to earn radios and sound systems as part of the privileges system.

Education

Children in custody have long been denied a right to education. Since 1944 the Education Acts are specifically disapplied for “persons detained under the order of a court”. Until recently this has meant that many under-19 year-olds in custody, who would otherwise be entitled to full-time education appropriate to their “age, ability and aptitude”, have received little or no education, and certainly nothing tailored to their particular needs. In an attempt to change this Prison Order 4950 Regimes for Prisoners Under 18 Years Old transferred responsibility for education from the Prison Service to the Prisoners Learning Support Unit at the Department for Education and Science. Young offender institutions are required to provide 30 hours of ‘purposeful activity’ a week, of which 15 must be education if the child is under school leaving age. At the beginning of a detention and training order there has to be a “training plan conference” at which education staff and a representative from the child’s local youth offending team attends in order to identify specific objectives for the child to work towards and to screen for any special educational needs, particularly dyslexia.

All this would be useful if it actually occurred. Unfortunately the evidence suggests that the establishments are struggling to meet even the bare minimum in education. The Inspectorate’s recent report A Second Chance – A Review of Education and Supporting Arrangements within Units for Juveniles managed by HM Prison Service, carried out jointly with OFSTED, found disappointing results, particularly as regards tailored education plans and special educational provision, although there were patches of excellent practice which showed what a huge difference effective education could make in the lives of these children.
It is hard to understand why children in custody do not have the same educational rights as every other child, particularly their strong legal rights to assessment for special educational need and to have those needs met by the education authority. Just as children should have the full protection of the Children Act 1989, and have their health care met by the National Health Service, so surely their education should be the responsibility of the local education authority of the establishment, in liaison with educational personnel from the child’s home authority.

**Concerns expressed by the Inspectorate in recent reports**

The Inspectorate has placed such a high priority on the education and training of under-18 year-olds in custody, and has been so concerned about progress in this area, that it undertook a special investigation, jointly with OFSTED, into the state of education provision for juveniles in young offender institutions. Despite the new regime for the under-18s, its findings were not good, except for the occasional glimmer of good practice. Over a quarter of the observed teaching sessions were deemed “less than satisfactory”; vocational training and offending behaviour courses were particularly poor and education staff rarely attended the initial training plan conference so “As a consequence, recorded education objectives were so general that they were almost meaningless.” Dyslexia screening was carried out in some but not all establishments, and there was little other special educational input; equally children had very limited opportunities to pursue higher level qualifications. The majority of buildings were “barely adequate” – often too small, or dilapidated. The Inspectorate was particularly concerned about the impoverished education of unsentenced children on remand and of those who were on short sentences.

Some of these deficiencies simply relate to lack of resources. *A Second Chance* points out that the average spent on education for an under-18 year-old in a young offender institution is £1,810, compared to £16,040 for a child in a secure training centre and £16,079 for a child in a local authority secure unit.

The weakness of some of the education provided in young offender institutions is outlined in the Inspectorate reports:

Given the poor quality of education provision, it was not surprising to receive so many complaints from children about the quality and relevance of what was on offer. A number said that they were doing work that they had previously done at school and their disaffection was probably a repeat of that which had led many of them to originally opt out of school… Juveniles were unable to demonstrate what they could achieve in written work, and even less so orally, because of the tedious and undifferentiated nature of what they were asked to do… Initial assessment of students’ numerical capability was rudimentary, and it did little to inform individual programmes of work. Consequently, many students wasted their time on simple arithmetic, in which they were already competent. The only strategy that was frequently used to deal with numerical weaknesses was to give more practice at the same work, without identifying and addressing the underlying misconceptions. This reinforced a sense of failure and did nothing to encourage improvement. In most classes, systems of assessment and recording of achievement were inadequate. This resulted in some instances of students repeating exactly the same work, and making the same mistakes each time.

In theory, the First Training Plan should be completed within ten days of arrival. We found that 24% of juveniles who had been on A wing for over ten days were still awaiting their first training plan. We were told that, since it was the external YOT worker who arranged this first meeting, all staff could do was to prompt them when
the time had expired. Delays were such that staff had resorted to asking juveniles to put their names on a list if they had not had a training plan meeting. This was unacceptable and should be addressed.\textsuperscript{267}

...Classes were well attended and often oversubscribed. There was no system in place to ensure a fair allocation of the limited education places available. Students would not know if they were able to attend education until they were unlocked, and if they were able to attend they often would not know the topic of the class, and teachers were not aware of who they would be teaching until students arrived in the classroom.\textsuperscript{268}

It was not possible for the staff to guarantee that all young people of compulsory school age were receiving regular lessons in English and Mathematics.\textsuperscript{269}

Targets and proposed training activity were stated in very general terms and proved in many cases to be a wish list when it transpired at subsequent reviews that the programme had not been delivered. Casework staff, like their wing colleagues were demoralised by the poverty of what they had to offer and were well aware that they were often asking a young person to sign up to a commitment when they knew there was little chance of [the institution] keeping its side of the bargain. The Wing Managers acknowledged their training plan processes but said that their overriding objective was to ensure that the conferences took place within the prescribed timescales (which was generally happening) and thus saved them from being fined by the Youth Justice Board. YJB monitors did not apparently concern themselves with issues of quality of conferences and the resulting plans.\textsuperscript{270}

The connection between education failure, often leading to truancy and exclusions, and offending behaviour has been made over and over again. \textit{A Second Chance} provides some telling findings – that 73\% of surveyed children in custody “described their educational achievement as nil”, and that 42\% and 36\% of a very large sample of juveniles had, respectively, numeracy and reading abilities of a seven-year old child or younger. While the causes of this educational disaster may partly be social and educational, a significant proportion of the children will have specific cognitive and physiological learning difficulties, in particular dyslexia, which should have been identified and met.\textsuperscript{271} The inspectors noted deficiencies in this respect too:

New arrivals were asked to complete a basic skills test within a few days of being allocated to one of the wings… The results of these tests did not inform an individual programme of learning… No attempt was made to determine whether any of the students had dyslexia…\textsuperscript{272}

Overall, however, the format and administration of the basic skills screening processes were not sufficiently sophisticated to identify the true extent of trainees’ needs. There was, for example, no test for dyslexia.\textsuperscript{273}

It was not clear how well the information generated [by assessment] was actually used. On arrival in classes, the further basic skills assessment failed to utilise the information on file from induction. It was imprecise and ill focussed and no measurable and attainable targets were set.\textsuperscript{274}

For a total population of 240 (227 at the time of the inspection), there were only 80 places in education and a maximum of 37 places in vocational training (although for
reasons of staff shortages many of these were often not available). Apart from a few jobs, which had little or no training value, there was nothing else for young people to do...Although the quality of much of the work was good, the provision was such that there was substantial unmet need. For example, the initial assessment of young offenders showed about 150 were below Entry level in basic skills, however there were only places for approximately 50... A few staff had experience with learning difficulty children but no one was trained to deal with dyslexia.275

The Inspectorate and OFSTED inspectors were most concerned that the education provided should be focused on the abilities and needs of the child. They noted that, across the juvenile prisons:

Where learners had been carefully assessed, and realistic detailed targets set, more progress was made and learners responded well. There were several examples of effective one-to-one teaching sessions where tutors had established an atmosphere of mutual respect, and where there were clear expectations of achievement levels.276

The key was therefore careful initial assessment, particularly at the planning meeting at the outset of the detention and training order at which the child and his family and members of the local youth offending team are supposed to attend. Unfortunately inspectors note that only rarely did a member of the education team come to this meeting and that the educational objectives were therefore vague or wishful. They were also concerned that the target of 30 hours of purposeful activity and 15 of education would only be met if the children themselves found purpose and education:

However, as in other Prison Service establishments, achieving these targets created another set of issues:

- **Was the purposeful activity on offer relevant to the assessed needs and identified targets of individual children?**
- **Were the opportunities presented to children in such a form that they could be motivated to make use of them?** It was one thing to have facilities notionally on offer, it was another to link them with individually planned training programmes and to motivate the child to engage with them?

...Children in custodial care are well experienced in opting out of virtuous activity and those who think that just because they are in custody they can be dragooned into it should pause to reflect.277

Not only does the child have to be motivated, the task has to be worth the motivation. For example the inspectors noted that sometimes skills training was through the Open College Network (OCN) rather than NVQs, because there wasn’t time to do the latter. But employers do not recognise OCN certificates because they only confirm the training undertaken not the competence achieved, so its value was very limited.
**Education: What their rights are**

**International law**

*European Convention on Human Rights, First Protocol, Article 2*

No person shall be denied the right to education...

*UN Convention on the Rights of the Child, Article 29*

States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations...
(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 38, 39, 45*

Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

**In this country**

*Young Offender Institution Rules, Rules 37, 38, 39 and 40*

An inmate shall be occupied in a programme of activities…which shall include education, training courses, work and physical education.

In all such activities regard shall be paid in individual assessment and personal development.

The medical officer or a medical practitioner… may excuse an inmate from work or any other activity on medical grounds...

An inmate may be required to participate in regime activities for no longer than the relevant period in a day, “the relevant period” for this purpose being -

(a) on a day in which an hour or more of physical education is provided for the inmate, 11 hours;
(b) on a day in which no such education is provided for the inmate, ten hours; or
(c) on a day in which a period of less than an hour of such education is provided for the inmate, the
sum of ten hours and the period of such education provided, provided that he may not be required to participate in any one regime activity for more than eight hours in a day.

Inmates may be paid for their work or participation in other activities at rates approved by the Secretary of State, either generally or in relation to particular cases.

Provision shall be made at a young offender institution for the education of inmates by means of programmes of class teaching or private study within the normal working week and, so far as practicable, programmes of evening and weekend educational classes or private study. The educational activities shall, so far as practicable, be such as will foster personal responsibility and an inmate’s interests and skills and help him to prepare for his return to the community.

In the case of an inmate of compulsory school age, arrangements shall be made for his participation in education or training courses for at least 15 hours a week within the normal working week.

In the case of an inmate aged 17 or over who has special educational needs, arrangements shall be made for education appropriate to his needs, if necessary within the normal working week.

Provision shall be made at a young offender institution for the training of inmates by means of training courses, in accordance with directions of the Secretary of State.

Training courses shall be such as will foster personal responsibility and an inmate’s interests and skills and improve his prospects of finding suitable employment after release.

Training courses shall, so far as practicable, be such as to enable inmates to acquire suitable qualifications.

Work shall, so far as practicable, be such as will foster personal responsibility and an inmate’s interests and skills and help him to prepare for his return to the community.

No inmate shall be set to do work of a kind not authorised by the Secretary of State.

**Regimes for Prisoners Under 18 Years Old, Sections 8.2 and 8.3**

**Vocational training: mandatory requirements**

(i) Every young person must, before commencing vocational training, have been assessed as requiring or as being likely to benefit from it as part of their sentence plan. At least 70% of those serving a 6 month sentence or over must achieve the education and training targets set for them including the achievement of Key Skills at Level 1, the OCN Life and Social Skills programme, the ASET Generic Preparation for Work course and vocational qualifications.

(ii) Each vocational training course must address at least two criminogenic factors.

(iii) Young people must be able to obtain the following units or complete NVQs/GNVQs

**Vocational qualifications based on their length of sentence:**

4 month sentence - 1 Unit; 6 month sentence - 2 Units; 8 month sentence - 3 Units; 10 month sentence - 4 Units; 12 month sentence - 5 Units;

or at 12 months or more - a complete NVQ/GNVQ/Vocational Qualification at Level 1 or 2 for NVQ, Foundation or Intermediate Level for GNVQ.

(iv) Governors must seek to use release on temporary license procedures to enable appropriately selected young people to undertake work in the community which reinforces what is learnt in the establishment, which helps build self-confidence and self-responsibility and which serves the community.
Education: mandatory requirements:

(i) The timetable of education and training provision must be structured and delivered in multiples of one hour. The length of each period must be suitable to the nature of the subject and to the ability and aptitude of the class to benefit from it.

(ii) Every young person’s education and employment needs, ability and potential must be formally assessed and recorded within two weeks of arrival in custody as part of their induction.

(iii) Provision must reflect the recognised learning difficulties of young people, particularly dyslexia, attention deficit and hyper-activity disorder and any statement of special educational needs. It must also provide for the many young people who have a history of disrupted and unproductive schooling, with minimal or no achievement.

(iv) Following an initial assessment, each person who is to undertake a full-time or part-time education course or training programme must have an action plan with targets and a personal timetable of his programme suited to his identified needs, ability and aptitude. This plan must be formulated and reviewed as part of the sentence management procedure and outcomes must be recorded on Records of Achievement (ROAs) or a progress file.

(v) Each education course and/or training programme which wherever possible must be accredited, must address at least two criminogenic factors from the following list:
   a. academic attainment, particularly poor numeracy and literacy skills;
   b. problem solving skills
   c. creative thinking skills
   d. team working ability
   e. attitude, behaviour and social skills (including the importance of tackling racist attitudes and behaviour and sexist stereotypes)
   d. responsibility
   e. self esteem

(vi) The life and social skills course must involve sexual health education and parenting.

(vii) Each education course and training programme must lead to nationally recognised accreditation each of these three areas:
   1. Key Skills: numeracy, communications, including literacy…
   2. Preparation for Work and Citizenship…
   3. Life and Social Skills… in importance of personal hygiene; healthy eating; sexual health and responsibilities in personal relationships; parenting; dangers of substance misuse; personal fitness

(viii) Education will be provided for all young people under school leaving age for at least 15 hours per week; but the remaining 15 hours, if they are not also to be spent in education, must be spent in accredited educative activities which may include work-based learning.

(ix) Cleaning work must be undertaken outside the 30 hours purposeful activity each week unless it forms a very small and meaningful part of a post of responsibility which has clearly defined performance standards and is accredited.
Education: What we recommend their rights should be

In addition to the rights set out in *Regimes for Prisoners Under 18 Years Old*, children in custody should have ordinary rights to education that every child has under current education legislation, including:

- Responsibility for their education should belong to the Secretary of State for Education and the local education authority.
- Full rights to assessment for special educational needs and provision to meet their assessed needs.
- Where children are looked after by the state before being locked up, any existing personal educational provision (for example, one-to-one literacy or numeracy tuition) should be continued for as long as they require it.
- Children who have started but not yet completed educational or vocational courses should be offered continuing provision on their release.

Rehabilitation

Education is a very important part of these children’s rehabilitation, but it is not the only part. Given that young offender institutions’ aim is “to help offenders to prepare for their return to the outside community” every waking moment of the child’s life inside should be, in one way or another, seeking to restore to the child the possibility of a non-offending life outside. Many of these children have had such negative experiences at school that anything that smells like education will be rejected. Some children will be in urgent need of psychological treatment for abuse and neglect they have experienced, others will need treatment for deep-seated offending behaviour (such as those convicted for certain sexual offences or arson). Most children will simply need positive experiences which suggest to them that there is more to life than committing offences, and hopefully, in some individual cases, these experiences will create a passion that will last them a lifetime.

While the responsibility of local authority social services for locked-up children is not directly the subject of this report, nor comes within the Inspectorate’s remit, it is too important not to touch upon here. The Home Office does not keep statistics of how many children in young offender institutions are being looked after or are in care, but the cumulative findings of the Inspectorate’s questionnaire of over 700 individual children shows that over a third of them had been in children’s homes and/or foster homes, and just under half of these said this was for periods of over a year. While in some cases the child’s family may also be actively in touch, for many they are reliant on social workers for any personal contact – regular visits, birthday and Christmas or other presents, and, crucially, planning for their release. Sadly, we believe that local authorities are often derelict in their duties towards these children, behaving as though their responsibilities are ended (or at best massively diminished) once the child enters the criminal justice system. This neglect has if anything been reinforced by the introduction of youth offending teams, which appear to be evolving away from their social services’ origins and yet which cannot take full responsibility for the care and welfare of children who are not living with their families. We fully support the Chief Inspector’s recommendation in *Young Prisoners: A Thematic Review* that local authorities should pay the costs of all children in custody, as a means of making local communities more responsible for creating positive alternatives to custody.
Concerns expressed by the Inspectorate in recent reports

Most of these extracts from the reports highlight the deficiencies of young offender institutions. The following describes excursions given as part of the PE programme at one establishment:

These excursions included visits to the local swimming pool to teach them how to swim and simple survival techniques in canoes, rock climbing, bicycle trips across country and camping expeditions. These were not expensive junkets, but challenging episodes in the individual young persons lives where they were subtly introduced to the concepts of teamwork, individual responsibility, achievement, dealing with failure and helping others through this process. Four camping expeditions had taken place so far this year with both staff and young prisoners enthusiastic about the experiences shared. 

Such excursions should surely be a feature of all custody for young people, just as the positive experiences of, for example, work in gardens and farms and pet corners, that are fleetingly glimpsed at other institutions should be replicated everywhere. But unfortunately hide-bound, cautious or over-academic responses frequently suppress such initiatives, for even perfectly ordinary activities such as cooking or induction:

An unpleasant incident arose in one cookery lesson when the teacher insisted that all young people should attempt the same writing assignment after a practical session, regardless of their ability to do so. Some members of the group became anxious and angry and had to return to their units; part of a teaching and learning session was lost.

In our view, the reception and induction processes were over dependant on paperwork and written information, most of which was presented in a manner more appropriate for adults. As the majority of trainees had only basic literacy skills, we believe that many of these would be overwhelmed or ‘turned off’ by information presented in this way. We saw one example of an illiterate trainee being required to copy words onto a form by a member of staff. The trainee became tense and obviously wanted to distance himself from the exercise. Whatever the rationale for the exercise, there must be a way of achieving the desired outcome without humiliating and demotivating the trainee.

Reception was seen as an activity that had to be accomplished as quickly as possible, with attention to the main process requirements, rather than as an opportunity for staff to challenge the unreal ‘macho’ attitudes that characterise the behaviour of many young people who enter penal institutions… Here was an ideal opportunity to try to get through to young people at a time when they could be susceptible to influence, but it had yet to be grasped. This was confirmed by the fact that only 3% of young prisoners felt that they had been treated well in reception; the vast majority (69%) indicating that their admission into [the institution] had been a neutral experience.

And in others the inspectors noted the absence of crucial rehabilitative help, and in one case at least, of some degree of reinforcement of unconstructive attitudes:

[The establishment] did not offer any courses specifically aimed at addressing offending behaviour related to sexual offences… Where the offence was against a female over 16 years as opposed to offences against children, there were particular issues within a custodial institution to be considered. Both the nature of the environment and the staff culture often only reinforced the objectification of women through the normalising of
certain behaviour, for example references to “tits and bums”, and the nature of magazine material displayed in cells and discussed between Officers and prisoners. We witnessed some verbal interactions between staff and young prisoners; prisoners also told us of staff verbal interactions with them in relation to women, including reading intimate details from their letters out loud to them. We consider this to be inappropriate. Although the motives of these staff may be well meaning, they were misguided in these attempts to establish rapport.\textsuperscript{284}

**Rehabilitation: What their rights are**

**International law**

*UN Convention on the Rights of the Child, Articles 29 and 39*

States Parties agree that the education of the child shall be directed to:… The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 12*

…Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

**In this country**

*Young Offender Institution Rules, Rules 3 and 37*

The aim of a young offender institution shall be to help offenders to prepare for their return to the outside community.

The aim mentioned in [the] paragraph [above] shall be achieved, in particular, by – providing a programme of activities, including education, training and work designed to assist offenders to acquire or develop personal responsibility, self-discipline, physical fitness, interests and skills and to obtain suitable employment after release.

An inmate shall be occupied in a programme of activities provided in accordance with rule 3 which shall include education, training courses, work and physical education.

In all such activities regard shall be paid in individual assessment and personal development.

*Regimes for Prisoners Under 18 Years Old, Sections 6.2, 8.1, 8.4,8.7*

Every young person must be formally assessed using the method of assessment developed by the Youth Justice Board, where this has not already been done. Where it has, a formal consideration of that assessment must take place. Assessment is likely to be in each of the following areas, and the results of these assessments must inform the sentence planning and review procedures and form the basis upon which every young person’s programme of purposeful activities is drawn up:
a. education;
b. vocational training;
c. behaviour;
d. health care needs;
e. relationships with family and supervising officer.

However, it is also open to Governors to use such evaluational tools as the Barrett Impulsivity Scale and Gough Socialisation scale; PICTS (Psychological Inventory of Criminal Thinking) and CAQ (the Custodial Adjustment Questionnaire).

All regime activities must help foster personal responsibility and skills in establishing and developing appropriate relationships with colleagues and staff.

Where crimes are racially motivated, or contain sexist elements, those features of the offending behaviour must be specifically challenged.

Offending behaviour programmes which are appropriate for young people must either be nationally recognised accredited courses or have been approved by the Area Manager.

The effectiveness of programmes must be monitored and contribute to the ongoing review of offending behaviour programmes.

Governors must arrange community work placements taking particular care to assess the issues of public safety and risk of re-offending and absconding.

Work for young people on temporary release must have a genuine reparative, not a merely retributive, element in addition to its wider rehabilitative purpose, clearly understood by both the community and those engaged in it.

**Rehabilitation: What their rights should be**

- Children in custody shall have the right to:
  - treatment and other measures to secure that they recover from any psychological hurt they may have sustained;
  - a programme of meaningful activities which aim to promote their self-respect, respect for others and sense of responsibility;
  - training and activities that encourage those skills that will assist them to live as full members of society, now and in the future.

- Social services should be charged with full responsibility for acting as a good parent for all children it is looking after who are locked up.
Contact with family and local community

Perhaps the main reason that prison does not rehabilitate people is that it is an artificial environment divorced from the real world. A boy might flourish in a locked institution, developing all sorts of interests and good intentions, and yet as soon as he gets back to his home and old haunts, friends and temptations, all his new ambitions evaporate. Arguably the only way to fix new habits and ways of thinking is to develop them in situ, so that right from the start they form a part of the child's usual experiences and behaviour.

This is one reason why it is extremely important for locked institutions to encourage the maximum contact possible with the child's home. Other reasons are of common kindness and of children's human right not to be separated from family except where this is unavoidable. Loneliness and homesickness are common and inevitable for most locked-up children: why should these emotions be needlessly encouraged by the institution? Under the Rules, children are only entitled to one visit a fortnight and one letter a week – why? The sad truth is that most family members and friends will not be able to manage more frequent visits or letters, but they should be encouraged to write and visit locked-up children as often as possible. And when they do visit, the experience should be as pleasant as is possible in the circumstances, which too frequently is not the case.

Concerns expressed by the Inspectorate in recent reports

Telephoning home is obviously of the greatest importance to the children, but the inspectors remarked on a number of occasions on difficulties with providing this relatively simple facility:

At the time of the inspection there was only one card telephone for every thirty young prisoners but we understood that soon after the inspection an additional telephone was to be installed in each unit. Young prisoners were advanced a 20 unit phone card as part of their reception pack which they paid back over four weeks, but as things stood, youngsters had no certainty that they could book a five-minute call during their association time.285

We were surprised to note that young prisoners were not given advances of phone cards or tobacco etc. whilst in Reception. These advances were given on the day after reception. Thus they were unable to make their own telephone calls to family etc. until at least the day after their reception… Such a practice could leave young prisoners open to bullying by perhaps forcing them into debt on their first night…

Youngsters were not usually allowed to speak to their families themselves on their first night at the establishment…

Youngsters were allotted approximately ten minutes for their calls. We estimated that youngsters would probably only have access to the phone once every six days at the most. Considering the importance that the establishment evidently did give to contact with families and friends, we felt that youngsters should have at least daily access to telephones.286

…Our survey showed that 83% of trainees were given the opportunity to make a telephone call but there was no facility for this to be made privately. We were told that a dedicated phone line had been requested but not provided.287
We were concerned that on reception... prisoners were unable to call home... This lack of contact was especially distressing in instances when they had been transferred unexpectedly, when they were newly remanded or in custody for the first time. Staff said they would telephone for them but then we were told they often reported back to the prisoner that they “could not get through”. In our questionnaire, nine young men in the 18-25 age group and 25 trainees mentioned that being able to contact family and friends on arrival... was their most immediate need... Over half (52%) of the trainees said they had been able to call home on their arrival, whilst 31% had not been able to do so.²⁸⁸

One establishment had, astonishingly, restricted the number of letters the young people could send for financial reasons, though it is hard to see the cost-effectiveness of this:

We were told that sentenced trainees were restricted to only one ordinary letter per week and that this had been introduced as a financial saving measure.²⁸⁹

Visiting facilities, too, were often a focus of the inspectors’ concerns – finding long waiting times for both visitors and children, poor accommodation, insufficient places, lack of privacy (see also privacy above):

Given the wide catchment area of [this establishment] and the distances friends and families travelled to get there, a booked visits system will ensure an appropriate length of time was available for each visit and allow those being visited to be ready for the visit. One young prisoner did not arrive to start his visit until 2.20pm when the visitors had been waiting since 1.30pm. They had arrived at the Visitors Centre at 12.00 to ensure that they were in the front of the queue.

...(the young people's) comments about the visiting arrangements reflected our own observations.

“ I had a visit where officers couldn’t find me and I lost 20 minutes of my visit”

“My visitors said they have sat at the table for 30 minutes before I arrived.”²⁹⁰

The Visitors Centre was still based in the same dilapidated portakabin as on our last visit. Its condition, if anything, had worsened and it clearly was not acceptable to expect visitors to use it. We were told that there had been money found to upgrade it and this needed to be started as soon as possible.²⁹¹

Over a third (36%) of the trainees surveyed said it was difficult for their family to visit. Of those who said it was difficult, 70% cited distance from home as the reason, lack of transport was given by 15% and financial problems by a minority of 6%... a quarter had not received any visits.²⁹²

...at weekends there was insufficient space for the numbers who wanted to visit. Whilst it might be possible to encourage more visitors during the week, many had good reasons, such as child-care or work commitments, that meant the weekend was the only viable option. Maintaining family and community ties is recognised as of prime importance for young people.²⁹³

Two of the main obstacles to visiting are, as the last extract suggest, time and money. Family members with work or children can only come at certain times; and if the institution is at a distance from their home they may not be able to afford the fare or take so much time off. The
inspectors were generally concerned about the problem of imprisoning children at a substantial distance from their homes – infrequency of visits being one very counterproductive consequence of this:

In our survey 70% of young offenders and 48% of juveniles lived over 100 miles away from [the institution] and 21% and 35% respectively, over 50 miles away. 80% of young offenders and 70% of juveniles said that their families and friends found it difficult to visit with 31% and 35% getting no visits. 22% of young offenders had one visit per month.294

According to our survey, 34% of trainees were between 50 and 100 miles from home. 21% of trainees said their friends and family experienced difficulty in getting to the establishment. Whilst 62% were being visited once or twice a month, 14% did not get any visits at all.295

However, because of the limited number of young offender institutions and secure juvenile accommodation units within England and Wales, young prisoners were often located long distances from their homes. There were few choices for those young prisoners who had been given long sentences and youngsters were generally allocated to either [name of establishment] in the Northeast or [name of establishment] in the Midlands. Overcrowding drafts had taken place in the year preceding the inspection and usually consisted of the movement of young prisoners... Staff described the disruption this had caused to those young prisoners’ lives and how there had been some disturbances on board the vehicles used to transport these overcrowding drafts because youngsters were very unhappy to move.296

The impact on family visits of placing children miles away from home was raised by the Board of Visitors in one institution:

The placement of Detention and Training Orders at an unacceptable distance from home makes family contact impossible.297

Not only family members, but also members of the child’s community supervision officers, youth offending team and social worker should also be actively involved in the child’s progress and in planning their training and rehabilitation. A Parliamentary Written Answer on 30th January 2002 stated that only 34 per cent of the crucial meeting drawing up plans for the young person’s discharge were attended by families. A Second Chance notes that not all training plan conferences were attended by the YOTs supervising officer, hardly surprising given the distance some establishments were from the home community and the demands on YOTs workers. The inspectors suggested in their report on a particularly remote young offender institution, that video conferencing might be one solution to this problem.298

Respect for children’s family extends to treating sympathetically their requests to attend funerals of loved ones. A Board of Visitor annual report graphically shows how children’s needs are too often subjugated to the perceived needs of the institution:

Deaths of grandparents (who have often been the prime carers) is a common phenomena with this age-group of prisoners, for whom this may be their first experience of the death of a near relative. (It is a cause for regret that the Prison Service does not normally permit youngsters to attend a grandparent’s funeral).299
Contact with family: What their rights are

**International law**

*European Convention on Human Rights, Article 8*

Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

*UN Convention on the Rights of the Child, Articles 9 and 37*

States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.

States Parties shall ensure that: …In particular, every child deprived of liberty … shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 59, 60 and 61*

Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

**In this country**

*Young Offender Institution Rules, Rule 10*

…an inmate shall be entitled -

(a) to send and to receive a letter on his reception into a young offender institution and thereafter once a week; and

(b) to receive a visit twice in every period of four weeks, but only once in every such period if the Secretary of State so directs.

The governor may allow an inmate an additional letter or visit as a privilege… or when necessary for his welfare or that of his family.

The governor may allow an inmate entitled to a visit to send and to receive a letter instead.

The governor may defer the right of an inmate to a visit until the expiration of any period of confinement to a cell or room.

The board of visitors may allow an inmate an additional letter or visit in special circumstances, and
may direct that a visit may extend beyond the normal duration.
The Secretary of State may allow additional letters and visits in relation to any inmate or class of
inmates.

_Regimes for Prisoners Under 18 Years Old, Sections 5.2, 6.3, 6.6 and 6.7_
Every young person must be offered the opportunity within two hours of their arrival to telephone
someone who may be concerned about their well being, and inform them of their circumstances where
such communication has not been made earlier in the day.
Governors must make arrangements to provide each young person’s next of kin within 48 hours of their
arrival where this is both possible and appropriate, with information about visiting, personal property,
pastoral care and the sentence planning, review and resettlement arrangements.

Governors must ensure that the sentence plan is drawn up within at least 10 days of reception and that
specific, measurable, achievable, realistic and time-bounded objectives for each individual are set…
It must be ensured that all relevant staff, particularly the supervising officer appointed by the Youth
Offending Team, families (where appropriate) and outside agencies, are given the opportunity to
contribute to the sentence planning process throughout the custodial part of the sentence…. The young
person’s progress must be constantly monitored and regularly reviewed. The first review must take
place within a month of the production of the sentence plan. The timings of subsequent reviews will
depend upon the needs of the individual young person, but must take place within a maximum of three
months. There must be an opportunity for the young person, his/her family and the supervising officer
to participate in the review. An independent person should also be invited to participate.

Governors must make arrangements which promote the positive contact and involvement of the families
of the young people.

Provision must be made to enable the young person to receive at least their minimum entitlement of
visits and letters in accordance with YOI rules and Prison Service instructions.
So far as is practicable, access to telephones and visits must be timetabled to avoid causing a disruption
to the individual’s involvement in purposeful activities.
Where a young person has difficulty establishing or maintaining communication with those best placed
to assist their successful release, help must be offered to them.

**Contact with family: What their rights should be**

- Children in custody should be entitled to see and communicate on a daily basis with
  their family and any others who are able to help them lead a productive,
  non-offending life.
- Children in custody should be entitled to telephone and send and receive letters
  (or, where appropriate, audio or video tapes) to these people on an unrestricted basis.
- The establishment shall take active steps to encourage and facilitate communication
  between children and their families and others able to support them on release.
Food

Anyone who has spent time in a hospital or boarding school or at an overnight conference will know that food takes on a disproportionate importance in residential institutions. Good meals may provide a bright spot in a bad day, whereas bad food can have powerfully negative effects. Poor nutrition contributes to mental ill-health, particularly depression, and food that is scanty or badly-cooked sends a clear message to the recipient that he or she is unvalued. And, as the Inspectorate points out, adolescent boys, particularly, have large appetites and need to fuel their growing bodies. No child should go hungry in this rich country. The fact that the only group of children who are in the direct care of central government are, in some cases, persistently hungry is a scandal. The fatalistic statement below, extracted from a Board of Visitor report into a new purpose-built private prison, shows the effects of institutionalisation:

> The food is put into heated trolleys that are then taken over to the wings shortly before each meal. This means that however crisp the chips and pies are when they leave the kitchen, inevitably they are soggy by the time the food is served on the wing. There have been justifiable complaints about this but no resolution to the problem can be found.\(^{300}\)

Concerns expressed by the children to the Inspectorate in recent reports

> “Not enough, meals are very slim and not filling, still hungry afterwards”

> “Weekdays you only get a sandwich at lunch, that does not fill you up”\(^{301}\)

> “The staff will not let us out in the mornings to get hot water for a cup of tea before going to work for 3 hours without a break. Food is small and often cold”

> “It tastes OK but there isn’t enough to fill you up”\(^{302}\)

> “There is not enough food and it is always over or under cooked”

> “…it doesn’t fill me up and it tastes very bad”\(^{303}\)

Concerns expressed by the Inspectorate in recent reports

The Inspectorate commented on the insufficiency of food in two institutions:

Breakfast was distributed to each young prisoner or juvenile the previous evening. It comprised one small cereal pack and a small carton of milk. Most young prisoners admitted that they ate breakfast that evening. Even if they kept it for the next morning, the amounts were wholly inadequate to meet the needs of growing young men for the morning activities.\(^{304}\)

Breakfast packs were being handed out in the evening and many of the young men felt unable to save their food till the following morning and ate it at night, much as any youngster would. The consequent lack of food until the following lunchtime was compounded by the difficulty that they had in getting a cup of tea in the mornings.\(^{305}\)
Standards of hygiene were criticized in another:

The hotplates were poorly designed with no sneeze screen or lamps to keep food warm throughout serving. This was particularly unpleasant as many young prisoners opted to smell the food before making their choice, placing their noses just inches above the food. We tested the temperature of the food when the last young prisoner had been served and found that it was well below the required temperature. This supported some observations that had been made to us by young prisoners who had told us that their food was sometimes cold.  

The Inspectorate’s praise for food in one institution (Werrington) conveys how unpalatable food could be in other establishments:

The quality of the products being produced in the kitchen remained high and the pre-select option for the evening meal was proving to be a popular system with both staff and young prisoners. Breakfast was particularly impressive with five choices of cereal as well as the traditional porridge on offer. This proved to be consistently popular with the young prisoners being made with whole milk and sweetener and quite unlike the grey glutinous product we have seen in other establishments.

We were pleased to see second helpings being offered to use up any excess at every meal time and the dining out arrangements facilitated this development.

It should be noted that one key to the success of Werrington’s kitchen is in the involvement of young people in its catering:

Employment in the kitchen had been developed further with fewer young people being employed but NVQ training being offered to those interested in achieving a recognised qualification. The young prisoners were very much part of the kitchen team and took considerable pride in their culinary achievements. A simple and easy to absorb training programme had been developed by the catering staff with the particular age group in mind and this had been approved by the local training authorities.

Food: What their rights are

International law

*UN Convention on the Rights of the Child, Article 27*
States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, moral and spiritual development… and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition…

*Standard Minimum Rules for the Treatment of Prisoners, Rule 20(1)*
Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 37*
Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.
**In this country**

*Young Offender Institution Rules, Rule 20*

Subject to any directions of the Secretary of State, no inmate shall be allowed, except as authorised by the medical officer, to have any food (or drink) other than that ordinarily provided.

The food provided must be wholesome, nutritious, well prepared and served, reasonably varied and sufficient in quantity…

*Regimes for Prisoners Under 18 Years Old, Para. 7.2*

The daily routine must… ensure a minimum of 4 1/2 and a maximum of 5 1/2 hours between breakfast and lunch, and between lunch and tea and no more than 14 hours between tea and breakfast the next day.

**Food: What we recommend their rights should be**

Children in custody should have a statutory right to:

- Sufficient, nutritious, varied, well prepared and well served food, including the food being of the appropriate temperature and to a high standard of hygiene.
- Special diets conforming to the child's religion, culture or philosophical convictions being made available on request, as well as any medically authorised diet.
- Meals, including breakfast, taken in the company of other children and staff.
- Second and further helpings offered at main meals.
- The three main meals of the day that include hot dishes.
- A light snack and a hot drink to be available before bedtime if the evening meal is more than two hours before this time.
- Be involved in the planning and preparation of the food.

**Clothing and personal hygiene**

As food is essential to the bodies of growing adolescents, so decent, clean clothing is central to most young people's emotional well-being. Ill-fitting, dirty or shoddy clothing is known to be a quick and efficient way of degrading captives. For reasons of security, or a desire to reduce a cause of bullying or embarrassment, an establishment may decide not to allow children to wear their own clothes, but this need not be the norm. Where institutional clothing is worn, this should be of a high standard and sufficiently up-to-date so as to enhance, rather than diminish, the children's self-respect.

Acquiring the habit of frequent washing and tooth-brushing is also an essential part of growing up. Though market research reports a rise in interest in personal toiletry items by young men, nonetheless there are still many adolescent boys who spoil their employment chances and opportunities for personal relationships because of poor personal hygiene. Custodial establishments should strongly encourage the children to enjoy the process of getting and being clean.
Concerns expressed by the Inspectorate in recent reports

There were no reports of military-style clothes complained of in Young Prisoners: A Thematic Review. However, the poor condition of clothes was a subject of comment:

Green boiler suits were used on visits. We received numerous complaints that they were dirty, smelly and were often thrown on the floor after use… All young prisoners wore green overalls for visits in order to make it harder for them to smuggle illicit items into the prison internally. We received complaints from young prisoners that these overalls were not regularly laundered and they would have to wear sometimes badly fitting and unclean overalls for their visits.308

…staff said that boys often applied for new shoes because it was clear that the soles were hanging off them. Staff did not recognise the opportunity to remedy the situation without requiring a formal application.309

Jeans had to be exchanged via application, usually every three weeks. Some trainees we spoke to said they washed their own issued kit and dried it on cell pipes in order to retain decent kit that fitted them.310

Managers told us that young prisoners received clean underclothes and shirt for every day of the week but what they actually received seemed to vary between units. Some appeared to have only three sets to last them the week while others had five sets.311

In one institution, the Inspectorate commended as good practice a staff decision to abandon forcing children on basic level to wear prison-issue trainers, because this “continued to undermine their already low self esteem”.312 This raises an unanswered question about what clothing other establishments used for children who were on basic level. Another piece of commended good practice was the personalizing of young prisoners’ kit by the use of iron-on numbers on each item.313 This suggests that in most other establishments this was not practised, unless the children themselves took steps to retain particular clothes.

As regards personal hygiene, the Inspectorate noted on occasion that children did not have adequate access to showers, for example:

“…trainees on the Basic regime (level 1) were only entitled to one shower a week… some trainees told us they were not always allowed a shower upon their return from work.”314

However one of the main problems about showering seemed to be that the shower block was consistently identified as being a place where children were vulnerable to assaults and bullying (see protection from violence), or where their privacy was invaded (see privacy) and therefore avoided.

Clothing: What their rights are

International law

UN Convention on the Rights of the Child, Article 27
States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, moral and spiritual development… and shall in case of need provide material assistance and support programmes, particularly with regard to… clothing…
**Standard Minimum Rules for the Treatment of Prisoners, Rules 12-18**

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

**UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 36**

To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

**In this country**

**Young Offender Rules 2000, Rules 19, 24 and 45**

An inmate shall be provided with clothing adequate for warmth and health in accordance with a scale approved by the Secretary of State.

The clothing provided under this rule shall include suitable protective clothing for use at work, where this is needed.

[Except when going to court] an inmate shall wear clothing provided under this rule and no other, except on directions of the Secretary of State.

An inmate shall where necessary be provided with suitable and adequate clothing on his release.
Every inmate shall be provided with toilet articles necessary for his health and cleanliness, which shall be replaced as necessary. Every inmate shall be required to wash at proper times, have a hot bath or shower on reception and thereafter at least once a week.

…An inmate required to be taken to any court shall wear his own clothing or ordinary civilian clothing provided by the governor.

*Regimes for Prisoners Under 18 Years Old, Section 6.2*

Time within the day must be provided for each young person to attend to personal hygiene and to contribute to the maintenance of high standards of cleanliness and orderliness in their cell and surrounding area. Cleaning work must be taken outside the 30 hours purposeful activity each week, unless it forms a very small and meaningful part of a post of responsibility which has clearly defined performance standards and is accredited.

**Clothing: What we recommend their rights should be**

- Wherever appropriate, children should be encouraged to wear their own shoes and clothes. These should be clearly but discreetly marked with their names.

- Arrangements should ensure the children wear clean underwear every day. Sufficient changes of clothes should be available to ensure that no child need wear dirty clothes of any description.

- Where shoes and clothes are provided by the institution, they should be:
  - well-fitting;
  - in good repair;
  - adequate for the weather and for any work or sport the child may undertake;
  - not degrading or humiliating to the wearer;
  - marked for the individual use of the child concerned.

- Children should be involved in planning the design of clothing worn within the institution.

- The removal or denial of clothes and shoes should not be used as a punishment.

- Children should be provided with toilet articles necessary for cleanliness and personal hygiene.

- Children shall be encouraged to have a shower or hot bath on a daily basis and required to do so at least every other day and after any strenuous or dirty activity.

- Showers and bathing arrangements should ensure that both the children’s privacy and their need to be protected from violence or ill-treatment by others are secured.
The physical environment

How a place looks is a crucial part of its message. The director of a famous institution for extremely troubled and dangerous children maintained that it was essential to provide a five star standard of accommodation – nothing else would dent the children’s depressed and negative feelings about themselves. None of these young offender institutions could be called luxurious, nor, sadly, will “public policy” ever allow them to be. Nonetheless the children are entitled to clean buildings in a state of decent repair, safe in terms of fire, theft and other hazards and free from features that degrade the young residents. A substantial part of the money injected into the “juvenile secure estate” has been spent on refurbishing these institutions to bring them up to a reasonable standard, but even now there are shameful aspects to the physical environment. Certainly there is no excuse for any child in custody being cold at night.

Concerns expressed by the Inspectorate in recent reports

The reports pay a lot of attention to the detail of safety and physical repair and make numerous recommendations about refurbishments. Most of these are just part and parcel of running a large residential institution and would doubtless be replicated in inspection reports of boarding schools or hotels or hospitals. The extracts here relate to deficits which directly violate the rights of the children to a decent standard of care.

Cleanliness and good repair

...we were concerned to find a large number of soiled mattresses from the whole prison awaiting disposal in the [health centre]. Some we were told had been waiting for several months.

Mattresses were often in poor condition, thin in the middle, damaged or stained.

The only juvenile unit... which held under-18s... was in clear need of refurbishment. The upper floor of the triangular shape was given over to multiple occupancy of cells and the lower single occupancy. The state of all cells was appalling. Graffiti were all over the walls with pictures which had been left by previous owners still stuck up. Lavatory areas were dirty. Nearly all had piles of rubbish which had been allowed to remain there for several days. There appeared to be no sense of drive to keep this unit clean. As a remand unit with few opportunities for juveniles to go out to attend purposeful activity, allowing them to remain in such poor conditions was bad practice.

The Unit was not in good condition and had not been refurbished since 1985. Vandalism was a particular problem on this Unit, usually occurring within the first week of a child’s arrival. We were told that by the time repairs could be made, fresh damage appeared with the week’s intake.

Cold

Some young prisoners on the Gold regime level had purchased and supplied their own continental quilts. Other young prisoners complained that cells were cold during inclement weather.
The unit itself was cold and the cells, in particular, were very cold. Trainees had adequate sets of clothing although some bedding was too thin for the temperatures experienced.\textsuperscript{321}

Security

[The] unit had individual top-lock cell door type keys for each cell occupant but they had not been issued. That was unfortunate since there were times when staff opened cell doors at the end of a period of activity without the occupant being present and the contents inside were vulnerable to theft by other residents, since lockable lockers had not been provided in cells.\textsuperscript{322}

The whole subject area of Fire precautions was in great disarray. It was difficult to discover who was in fact the Fire Officer. We could not find any of the records required by Statute, nor could we ascertain if the prescribed work had been carried out. Enquiries and observation indicated that the Fire Officer's duties were totally neglected, and consequently the establishment was not meeting any of its legal obligations in this respect.\textsuperscript{323}

The physical environment: What their rights are

International law

\textit{UN Convention on the Rights of the Child, Article 27}
States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, moral and spiritual development… and shall in case of need provide material assistance and support programmes, particularly with regard to… housing…

\textit{Standard Minimum Rules for the Treatment of Prisoners, Rules 10, 11 and 19}
All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

In all places where prisoners are required to live or work,
(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

\textit{UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 31 and 32}
The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective
alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

**In this country**

*Young Offender Institution Rules, Rules 22 and 23*

No room or cell shall be used as sleeping accommodation for an inmate unless it has been certified by an officer of the Secretary of State (not being an officer of the Young Offender Institution) that its size, lighting, heating, ventilation and fittings are adequate for health, and that it allows the inmate to communicate at any time with an officer.

Any certificate given under this rule shall specify the maximum number of inmates who may sleep in the room or cell at one time, and the number so specified shall not be exceeded without leave of the Secretary of State.

Each inmate shall be provided with a separate bed and with separate bedding adequate for warmth and health.

**The physical environment: What we recommend their rights should be**

- Institutions that accommodate children in custody must be clean, in a state of good repair, with adequate fire prevention and evacuation facilities.
- Wherever possible the design and furnishing of the buildings and grounds should aim to be attractive and home-like, minimising the institutional and custodial aspects.
- Bedrooms should be designed to encourage children to be proud of them and keep them looking nice, and children should be encouraged to decorate them with posters and personal items.
- Bedding should be regularly cleaned and be adequate for the children’s warmth and health.

**Complaints**

In March 2001 the Prisons Ombudsman published a report – *Listening to Young Prisoners* – outlining the difficulties faced by young prisoners in making complaints about their care and treatment. He noted:

The under-representation of young prisoners [in making complaints] is a particular personal anxiety, given that the two most worrying establishments I have visited in the past 12 months have been young offender institutions… is it a paradox or actually part of the explanation that the worst institutions seem to generate the fewest formal complaints?

The Prisons and Probation Ombudsman subsequently issued two annual reports, in July 2001 and June 2002 respectively. No information was included in either report on the numbers of complaints from children or of the types of issues raised by them.

Before making complaints to the Prisons and Probation Ombudsman, children must first exhaust systems available to them at a local level. Principally, they can make an “application” for a visit from a Board of Visitor, or they can use the Prison Service’s “Requests and
Complaints” procedure whereby their complaint must be responded to within seven days. Unlike children in other locked establishments – local authority secure units and secure training centres for example – children in young offender institutions have no access to specially trained advocates that can inform them of their rights and support them in resolving complaints. While they do have access to Boards of Visitors, these laypeople have no specific role in helping individual or groups of children make complaints. Indeed, their general power and influence has been questioned recently. A review chaired by Sir Peter Lloyd MP, reporting in March 2001, noted that:

The prime complaint by BOVs everywhere was that nobody really listened to what they had to say. As one Board Chair put it ‘Boards of Visitors are watchdogs howling into empty spaces’. 324

There were also questions of the perceived independence of Boards of Visitors:

Some outside organisations reinforced the suspicions, expressed by a number of Board members, that Boards were too easily captured by the system they were supposed to be monitoring… Not surprisingly perhaps if Boards that have repeatedly complained in the past and seen no response rage impotently and then accommodate gradually to the system as they find it. 325

Annual reports prepared by Boards of Visitors always include statistics on the number of applications they have received in a given year. In addition, they sometimes include information on the number of Requests and Complaints forms completed by prisoners: of the six reviewed for this report, three included such information. However, none of them provide a breakdown of who made the complaints (some institutions hold young adults as well as children) or the issues raised.

The Government’s response to the European Committee on Torture, whose members visited the UK in February 2001, included a pledge to introduce new complaints procedures from early 2002. This has not yet happened (October 2002).

**Concerns expressed by the Inspectorate in recent reports**

The Inspectors routinely examined ‘request and complaints’ forms and talked to the children about the making of complaints. In two establishments they found cause for concern, one concerning:

…numerous R&C forms had been issued that had later been withdrawn and not proceeded with. Young prisoners signed withdrawal forms which was good practice but one R&C form referred to an assault by staff in which the young prisoner signed his withdrawal slip stating that it had all been a joke. In the case of serious complaints, management, or perhaps a member of the Board of Visitors, should investigate all withdrawn Request and Complaint forms to satisfy themselves that no pressure has been put on the resident to withdraw the form. 326

The other seemed even more serious:

Trainees complained that they had to make applications for everything e.g. to have a haircut, to see a psychologist, to get property from Reception… some trainees felt they were looked on as troublemakers if they made frequent requests; this was verified by some of the staff comments we saw recorded in wing files.
A number of [complaint] forms had been issued but not used by the trainee, or issued and later withdrawn. Staff put that down to the “impetuous nature of juveniles”. A small number of trainees told us some staff discouraged them from making complaints or put pressure on them to withdraw complaints.327

However it was the relatively small number of complaints made by children within all these establishment that perhaps most worried the then Chief Inspector, who concluded in an inspection in 1999:

I believe that there is an urgent need for the Prison Service to consider its adjudication, application and request and complaints procedures to confirm their suitability for this age of offender. The procedures are designed for adults. I am not happy that they are suitable for young prisoners, as I have said before. I do not believe that they understand the systems, and they are given no ‘prisoner’s friend’ or other help. Those who speculate why Young Prisoners do not submit as many requests and complaints as their adult counterparts should reflect on whether lack of understanding of what the procedure is all about, has anything to do with it.328

His successor, in the most recent inspection of this establishment noted:

We were not persuaded that young prisoners were sufficiently confident to approach staff with problems; nor were we persuaded that staff generally were proactive in responding to prisoners’ needs. According to our prisoner survey some 67% of prisoners had not made any complaints whilst at [the institution]. Some of them felt it would create more problems for them if they did complain; others felt that nothing would happen were they to submit a complaint. Although we could find no evidence of applications being ignored or lost, prisoners spoke generally of either ignoring the system or having no faith in it… There appeared to be little knowledge amongst young prisoners of the confidential access element of the Requests and Complaints procedures… Generally speaking there seemed to be a vicious circle deriving from prisoners making relatively few demands on the system and the staff also wanting the system to make few demands on them… We found no evidence of repercussions or recriminations against prisoners who made complaints, but there did not appear to be a healthy complaints culture.329

**Complaints: What their rights are**

**International law**

*UN Rules for the Protection of Juveniles Deprived of their Liberty, Rules 75-78*

Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.
Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

In this country

Young Offender Institution Rules, Rules 8 and 82
A request or complaint to the governor or Board of Visitors relating to an inmate’s detention shall be made orally or in writing by that inmate.

On every day the governor shall hear any oral requests and complaints that are made to him…
A written request or complaint …may be made in confidence.

The board of visitors for a young offender institution and any member of the board shall hear any complaint or request which an inmate wishes to make to them or him…

Regimes for Prisoners Under 18 Years Old, Sections 7.5 and 7.6
Governors must operate the requests and complaints system in accordance with the instructions and guidance contained in PSO 2510 (CI 34/90).

The requests and complaints system must wherever possible and appropriate enable matters reported to be dealt with informally, with the individual concerned, particularly where matters are capable of being resolved or explained by the member of staff receiving the request or complaint.

Some young people are illiterate, inarticulate and unconfident. Governors must provide help to such young people where they wish to make a request or complaint.

Complaints: What we recommend their rights should be

- Children should have access to a complaints’ system that has been designed to be understood and used by them.
- In order to ensure that ill-founded complaints are not made, children should have a clear understanding of what standard of treatment they can expect in the establishment.
- The system should have informal and formal aspects, though a formal complaint should not be dependent on the child having made an informal complaint.
- Children who are unconfident about writing should be able to make a complaint confidentially, without having to act through an officer or member of staff.
- Children should have access to independent advocates who can help them make and resolve complaints.
- All complaints to the Governor should be examined by an independent person who should have the power to ask for a review of a decision, and to recommend solutions or compensation for complaints that are well-founded.
- All children in custody should be provided with accessible information on the role of the Prisons and Probation Ombudsman.
Involving and listening to children

Those who work with children, even children who are offenders and being punished for their crimes, are slowly acknowledging the importance of involving and listening to them. The benefits are obvious. First, although decisions about individuals, policies and practice are made by the adults, children’s input means that such decisions are made on the fullest possible information – an essential element of good decision-making. And second, decisions about children in which they have played an active role stand a much better chance of success. Even if the children’s wishes are not followed, they are more likely to collaborate if they feel that their views have been heard and the reasons for rejecting these views have been explained. Where children’s views are followed then of course they will be actively motivated in ensuring the success of the decision.

But even without these practical reasons for listening to children, the fact is that children now have an unqualified right to be heard in all matters affecting them under article 12 of the Convention on the Rights of the Child. This right acknowledges that children are not some sort of sub-human who must only be protected, trained and contained. As with so many of these issues, this right is about respect for the child as a fellow human being.

Concerns expressed by the Inspectorate in recent reports

Children in young offender institutions do not have a right to be heard or involved in decision-making or the development of policy and practice, so the inspectors did not make this a particular subject of their scrutiny. However they did note the occasional examples of good practice, for example that one institution had a sub committee of young people to the Prisoner Suicide Awareness Committee, which met regularly and provided inputs to the main committee.330

The inspectors themselves do of course talk to the children extensively and always append to their reports the results of very detailed questionnaires. They consequently discover many aspects about their life which are relevant to effective management. For example they recommended that a ‘geographical audit’ is done to identify bullying danger spots in the establishment:

Given that all penal institutions for young people are intrinsically unsafe places and that bullying is endemic throughout the penal system, children held at [this institution] were not as vulnerable as in some other Prison Service establishments. Nevertheless, there was much that could and should be done to improve the safety of the environment. At Appendix III young people list areas of the establishment in order of dangerousness. Management should conduct its own independent survey of the views of the young people held in [the institution], based on this model, and take appropriate action to improve child safety.331
Involving and listening to children: What their rights are

International law

*UN Convention on the Rights of the Child, Article 12*
States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

In this country

*Regimes for Prisoners Under 18 Years Old, Section 6.3*

…Young people must be encouraged to take an active role in the process of sentence planning so that they are committed to its objectives of preventing them from reoffending…

The young person’s progress must be constantly monitored and regularly reviewed. The first review must take place within a month of the production of the sentence plan. The timings of subsequent reviews will depend upon the needs of the individual young person, but must take place within a maximum of three months. There must be an opportunity for the young person, his/her family and the supervising officer to participate in the review. An independent person should also be invited to participate.

Involving and listening to children: What we recommend their rights should be

- Children should have the right to have their views heard about any matter affecting them, and have these views given due weight in accordance with their age and understanding.

- Children should be entitled and encouraged to attend any review or planning meeting that concerns their life, save for those meetings which are about security.

- Regular meetings should be held at which both staff and children attend, in which the children are encouraged to express their views about the effective running of the establishment.

- All committees within the establishment that are considering matters that affect the lives of the children should, where reasonable, invite children either to sit on the committee or form a sub-committee to advise the committee.

- Children who act in a representative capacity should be helped to discover what are the views of the body of children within the institution.

- An ‘exit interview’ should be conducted with all children who leave the establishment, aiming to discover their views and experiences of the institution on a confidential and anonymous basis.
Inspection reports by HM Chief Inspector of Prisons for England and Wales drawn upon in this report

HMP Eastwood Park – unannounced follow up inspection 8-10 June 1998.
YOI&RC Reading – report of a full announced inspection 19-23 April 1999.
YOI Onley – report of a full inspection 6-10 September 1999.
YOI Portland – report of an announced follow up inspection 5-8 December 2000.
2 Social Exclusion Unit (July 2002) Reducing re-offending by ex prisoners.
3 Ibid.
4 Information provided by HM Prisons Inspectorate.
7 See for example Z and others v UK, judgement of 10/5/01 H46-1087; and Paul and Audrey Edwards v UK, judgement of 4/3/02.
8 See note 4.
11 For example, see Lancaster Farms May 2000, page 133.
14 Information about these costs (for 2001) was obtained from the Youth Justice Board.
17 Portland, October-November 1999 page 3.
18 Glen Parva December 1999, pages 5 and 47.
22 Glen Parva December 1999, pages 4 and 49.
23 Ibid, page 58.
26 Ibid, pages 3-4.
27 Ibid, page 118.
29 Ibid, pages 22 and 41-42.
32 Stoke Heath October 2000, page 42.
33 Ibid, page 33.
34 Brinsford June 2000, page 53.
37 Brinsford June 2000, pages 20, 48, 50 and 60.
38 HMP and YOI Hindley December 1998, para. 2.42.
41 Ibid, page 12.
42 HMP and YOI Hindley, December 1998, para 2.91.
44 YOI and Remand Centre Reading April 1999.
45 Feltham September 1999, page 17.
48 Brinsford June 2000, pages 37, 68 and 106.
for example, Portland October 1999, page 55; Brinsford June 2000 pages 35-7; Glen Parva December 1999, page 47.

for example, Feltham December 1998, page 27.

Ibid, page 12.


Portland October 1999, pages 6-7.

See note 9.

A Second Chance 2001 (see note 13), page 22.


R v Home Secretary, ex p Flood (1998) 2 All ER 313.

Eastwood Park, June 1998, para 4.06.

Foston Hall June 1999, introduction paras. 2.14-16.

Holloway December 2000, pages 6-7 and 72-3.


Holloway December 2000, pages 75 and 81.

Ibid pages 73-4.

Regimes for Young Women Under 18 Years Old, PSO 4950 para 5.2.1.

Holloway December 2000, page 74.

Ibid, page 45.


Holloway December 2000, page 69.


Youth Justice Board figures for July 2002.


The exact record of this rise is not entirely clear, as Barry Goldson outlines in Vulnerable Inside – children in secure and penal settings, page 41-2.


Section 23, Children and Young Persons Act 1969 as amended by sections 97 and 98, Crime and Disorder Act 1968 – see also The Pre-Trial Guide – working with young people from arrest to trial, by Sharon Moore and Roger Smith, The Children's Society.


This is not set out in primary legislation but is an explicit part of the National Standards for Youth Justice issued by the Youth Justice Board in April 2000 which detail Youth Offending Teams’ range of responsibilities, augmented by its Guide to the National Standards for Bail Supervision and Support Schemes, October 2001.


Ibid pages 2 and 31.


Justice for All 2002 (see note 6), page 24.


PSO 4950 Regimes for Prisoners Under 18 Years Old para 5.2.

A Second Chance 2001 (see note 13), page 21.

Ibid, pages 22-3.

Holloway December 2000, page 74.

Castington May 2000 12.


This presumption is currently being challenged in the High Court by the Howard League for Penal Reform.

Prison Act 1952 s 1 and 3.

Feltham October 2000, appendix.


Brinsford May 2001, page 42.

Feltham October 2000, page 79.


HM YOI and RC Castington Board of Visitors Annual Report to the Secretary of State for the period August 1999 to July 2000, page 6.

Castington May 2000, page 54.


Castington May 2000, page 54.


See, for example, Young People and Crime by John Graham and Benjamin Bowling, Home Office Research Study 145, 1995, Misspent Youth - Young People and Crime, Audit Commission 1996, Regimes for Prisoners Under 18 Years Old, PSO No 4950.

Children in Mind – child and adolescent mental health services, Audit Commission, September 1999, page 5.


Report to the Government of the United Kingdom on the Visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 16 February 2001, para 76; Response of the United Kingdom Government to the report etc., para 105.

Glen Parva December 1999.


Castington May 2000, pages 53-54 (the patients may, because of shared facilities, have been over 18).

Feltham October 2000, page 80 (again, some of the patients may have been over 18).


Feltham October 2000, page 92.

Castington May 2000, page 53.


Wetherby March 2001, page 78.


Castington May 2000, page 86.


Parliamentary Written Answer, 31 Jan 2002.

Information from the Youth Justice Board.
136 See note 7 and Osman v UK, 28 October 1998 European Court of Human Rights.


139 Information obtained from Inquest, 89-93 Fonthill Road, London N53JH, tel 0207 561 0799.

140 Information obtained from Inquest, also from The Independent, September 27 2002, page 2.

141 Information from Inquest.


144 Castington May 2000, page 41.


146 Feltham October 2000, page 94.


149 Castington May 2000, page 40.


151 Anti-bullying Strategy, PSO 1702.

152 Castington May 2000, appendix.

153 Feltham October 2000, appendix.


157 Portland December 2000, page 70.


159 Feltham October 2000, page 66.


161 Feltham October 2000, page 22.


163 Feltham October 2000, page 22.


165 Wetherby March 2001, pages 22 and 65.

166 Hollesley Bay August 1999, pages 34-5.


174 Lancaster Farms May 2000, page 139.


177 Werrington November 1999, pages 2 and 15.


180 Lancaster Farms May 2000, page 139.


183 Parliamentary Written Answer 6 February 2002.

184 HM Prison and Young Offender Institution Hollesley Bay. Report to the Secretary of State for the period 1st October 1999 to 30th September 2000 by the Chairman of the Board of Visitors, page 7.


188 Castington May 2000, appendix.

189 Feltham October 2000, appendix.

190 Portland December 2000, appendix.

191 Wetherby March 2001, appendix.

192 Stoke Heath May 2001, appendix.

313 Hollesky Bay August 1999, page 37.
315 Masud Hoghughi, director of Aycliffe.
318 Feltham October 2000, page 46.
323 Ibid, page 125.
326 Lancaster Farms May 2000, page 70.
328 Onley September 1999, pages 3-4.