

NAYJ Response to Education Inquiry January 2021

We are pleased to be able to respond to this inquiry, which has a welcome focus on educational provision for people in prison. This response focuses on education for children whose sentences are served in the secure estate¹. In England and Wales the youth secure estate is distinct from the adult prison estate and holds children aged 10-17 across three types of establishment. This response primarily seeks to address questions posed such as the purpose of education in the secure estate, how the public sector provision compares with private provision and draws on what we know from research on children's education in the children's secure estate.

We are aware that there are multiple challenges associated with the provision of education in the children's secure estate and there are very few examples of high quality provision (Taylor, 2016; Wood et al, 2017). Prior to their entry into the custodial estate, children sentenced to custody have experienced high levels of exclusion from formal education in the community. Cripps and Summerfield's (2012) review of findings from two HMIP reviews on the resettlement provision for children and young people and the care of looked after children in the secure estate has documented this. Likewise research by the Ministry of Justice published in 2014 found that "86% of young men in Young Offender Institutions (YOIs) have been excluded from school at some point, and over half of 15-17 year olds in YOIs have the literacy and numeracy level expected of a 7-11 year old. Research also indicates that 18% of sentenced young people in custody have a statement of special educational needs.' (MoJ, 2014:3).

Research by the Ministry of Justice with those children sentenced in 2014 recorded as being 16 or 17 years old on their sentence date found that "23% of those sentenced to less than 12 months in custody have been permanently excluded from school prior to their 2014 sentence date. For those sentenced to 12 months or longer in custody, 16% have a previous record of being excluded from school prior to sentencing". This is a persistent and worsening problem; the 2017 – 18 'Children in custody' report (Green, 2019) found that 89% of boys in YOIs had been excluded.

A high proportion (61% between April 2014 and March 2016) of new admissions to specifically youth custody are recorded as not engaging in education ('Key characteristics of admissions to youth custody, Ministry of Justice, 2017). Older admissions to custody between April 2014 and March 2016 were more likely to not be engaging, with 65% of those aged 16-17 reportedly not engaging in education compared with 44% of those aged 10-15. Young people sentenced to the children's secure estate have lower educational attainment at Key Stage 2 and 4 compared to the averages for the overall pupil population (Ministry of Justice, 2016).

It is clear that many children in the children's secure estate are not 'education ready' (Bateman, 2016, 2017), due to a range of interrelated issues and difficulties in their lives comprising multiple underlying vulnerabilities

¹ This submission generally refers to the 'children's secure estate' or 'custodial settings for children', mirroring language in common use, particularly by government departments. STCs and YOIs in particular are sometimes referred to elsewhere as 'prisons'. The NAYJ is a member of the coalition of organisations campaigning to [End Child Imprisonment](#).

associated with their living circumstances and being looked after by the state. There is a relatively limited evidence-base detailing research conducted in secure institutions to understand children's perspectives on their education. In response to the survey question 'Have you learned anything here that will help you when you are released (e.g. education or skills)?', just 63% of those in STCs and 48% of those in YOIs responded 'yes' (2018/19). HMIP has also consistently found high proportions of children in their cells when they technically should be in education (HMIP, 2020). So the notional 25 hours weekly education provision only exists on paper and has been much worse during the lockdown periods associated with the pandemic response in 2020 and 2021.

In contrast, the Justice Studio (2014) report carried out for the Secure Accommodation Network suggested that educational outcomes are relatively good in Secure Children's Homes (SCHs). Relative to YOIs and STCs, SCHs are characterised by a not-for-profit ethos, tend to be smaller in size and have considerably higher staff:child ratios (Bateman, 2016; Little, 2020).

In 2012/13, the YJB instigated a workstream to explore differential access to college education amongst children serving custodial sentences. There was inconsistency between different Young Offender Institutions (YOIs²) in their use of ROTL³ to facilitate access to college interviews, for example. There was also found to be inconsistent practices by college staff. Prior to this, YJB research identified multiple barriers to future progression in education, training and employment for children serving sentences in the community and in secure facilities (YJB, 2006).

A study on children's perspectives of their education in prison was undertaken by Little (2015), who surveyed children in a YOI in England using a questionnaire (n = 47), discussion groups (n = 25) and one-to-one interviews (n = 4). The majority of these children felt they had had the opportunity to participate in educational activities at the YOI, but their views about the extent, nature and influence of this participation varied. In particular, three thematic issues were highlighted:

- Limited choice: Some participants had strong ideas about what they wanted to study or train in and had been left disappointed by the restricted educational options available. Whilst classroom facilities were good, classes did not always take place due to staff shortages or disruption in the prison. Choice was particularly constrained if participants had already attained GCSEs and for children assigned anything other than a low risk level;
- Barriers to learning: Children identified a variety of barriers to learning associated with prison life, such as difficulty concentrating, conflicts with others, coping with long sentences or not knowing where they would be living upon release. A key barrier identified by discussion group participants was the nature of their risk assessment, which could severely limit their educational options. According to one participant: 'I

² Young Offender Institutions (YOIs) are prisons for children aged 15-17 years. They are run by HM Prison and Probation Service as part of the wider prison estate. Separately, there are also YOIs for young adults aged 18-21 years.

³ ROTL is Release on Temporary Licence. It is designed to enable "participation in activities outside of the prison establishment, directly contributing to community resettlement and development of a purposeful, law-abiding life" (HMPPS, 2019)

<https://www.gov.uk/guidance/release-on-temporary-licence>

have a high-risk assessment, so there's not much I can do. I can do different stuff but it's all based around education (not practical activities). I don't wanna do education.'

Those children experiencing some of the greatest barriers were those segregated from the main population. Despite efforts by the institution to provide these children with education, each discussed their disengagement both before and during their time in prison.

- Informal learning opportunities: The most well-received learning activity amongst the children engaged in the research was the Raptor project, which allowed them to work with, and care for, birds of prey living at the site. This stood out as an activity in which they felt they had positive opportunities for learning and the potential for increasing levels of responsibility over time. Responses from participants involved with the project were extremely positive. For example, 'Matt', one of four children interviewed whilst subject to segregation, was extremely enthusiastic about this project: 'Raptor is one of the best things I've done since I've been here...on Raptor, I'm learning something new, I never knew it existed before.'

Children highlighted a role for education delivered in secure facilities to focus on getting children ready for their education, training and employment on release. One child participating in Little's research, for example, suggested the idea of 'taster courses', to give people choice about what they might want to do more of and ultimately help people "to find their own path". This is possible in a context in which a pedagogic relationship exists with a trusted adult that allows the exploration of ideas and practice that is meaningful for each child. The informal learning opportunity afforded by the Raptor project illustrates this (counter to the typical custodial educational experience) by enabling some of the most vulnerable children move on from negative prior experiences of formal education. This points towards what Warr (2016) has referred to as the need to 're-privilege' informal education provided in custodial settings to support dialogue based learning which is sensitive to the context in which it operates. If the goal of education is to help individuals become a fully functioning person (Rogers, 1983) then children need opportunities for self-directed, experiential learning in a social context that is not too oppressive for the learner.

Education provision could achieve a lot more. Rather than simply achieving functions of control and management and meeting minimum legal and contractual obligations, it should seek to enable children to make positive developments in their own lives. They can play an important part in determining what these should be. There needs to be an enhanced scope for trusting children to play a part in curating their own learning journey in order to support improved educational and social experiences.

Statistics on the economic and social outcomes of formally incarcerated youth show that formally incarcerated youth have low levels of educational attainment, high recidivism, and low levels of economic security (Geller, Garfinkel, and Western 2006, O'Brien and Young 2006, Western and Pettit 2010)

In relation to the question about the quality of public and private sector provision, Little (2020) has explored the consequences for children's education in secure custody in a market society. An earlier paper also explores the potential future directions for education in the children's secure

estate based on what is known about the three different forms of custodial provision (Little, 2018) drawing on the work of Bateman (2016, 2017), the Taylor Review of Youth Justice (Taylor, 2016) and research by the Ministry of Justice, amongst others. In short, this research concludes that the most appropriate forms of education delivery, where opportunities for learning are better, tend to occur in those types of institutions where it is possible for professionals to develop meaningful and trusting relationships with children subject to sentences in secure settings. Secure institutions are not good places for children learn how to live healthy and happy lives. However, it is clear that for those children who the state deems this to be necessary, there is much that can be done to improve the circumstances in which children live and learn. In a paper published on the NAYJ website on the 'transformation' of youth custody, Hart (2017) draws on lessons learned from visits to custodial provision in Spain, Finland and the USA.

Hart's discussion notes that "even if one accepts that the main purpose of custody is the prevention of further offending, there is no evidence domestically of a coherent theory of change...as to how this will be achieved" (2017: 4). Hart explains that the starting point for designing a secure estate, and the educational and learning opportunities within it, needs to consider what will enhance a child's life and help transform their future behaviour so as to not commit further offences. Hart found that, in contrast to the YOIs and STCs of England and Wales custodial establishments in Spain, Finland and progressive establishments in the US seem to have have a more clearly developed sense of what they wanted for their children. The common thread was a form of quasi-parenting: supporting healthy and positive development towards maturity. She paraphrases a policymaker in Spain who put it simply by saying that he wanted children to 'learn how to live' during their time in custody. The Diagrama establishments in Spain saw themselves as providing 'love and boundaries' until children learned to manage their behaviour and re-join the community. This process of re-integration was gradual, rather than the abrupt and rigid release arrangements to which children in England and Wales are exposed.

The Inquiry proposes a number of more technically oriented questions. Educated answers to these specific questions require an understanding of the complexity of the secure provision from understanding key underpinning principles and an appreciation of the apparent lack of a coherent strategic approach which articulates the purpose of secure provision beyond locking children up for almost arbitrary amounts of time. It is therefore difficult to meaningfully address a question about the purpose of education in the children's secure estate without considering the purpose of detention itself. Given that children in secure settings tend to have experienced multiple social disadvantages prior to their incarceration (Taylor, 2016; Bateman, 2020), including high rates of school exclusion, better questions might consider how we teach children subject to custodial sentences how to live, and how will they gain learning opportunities to reintegrate into society over time.

About the NAYJ

The National Association for Youth Justice (NAYJ) is the only individual membership organisation which became a charity in 2010 and exclusively campaigns for the rights of and justice for children and young people in trouble with the law. NAYJ seeks to promote the welfare of children and young people in the Youth Justice system in England by campaigning, lobbying, publishing practice and policy papers and providing training events and conferences. NAYJ is a member of the Standing Committee for Youth

Justice, www.scyj.org.uk and of the Children's Rights Alliance for England, www.crae.org.uk

NAYJ is also a member of the International Juvenile Justice Observatory www.ijjo.org

The NAYJ is a founder member of the campaign to [End Child Imprisonment](#), which has recently published a document on the case for ending child imprisonment (Article 39, 2020).

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First published: 15 October 2014.