

EndChildimprisonment

Principles and minimum expectations for children deprived of their liberty





EndChild imprisonment

At least 4 in every 10 children in prison:

- have been in care;
- were eligible for free school meals;
- have special educational needs.

Almost half of children in prison are from black and minority ethnic communities.

1 in 3 children in prison has mental health difficulties.

At least 1 in 10 children in prison has experienced the death of a parent and/or sibling.

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Terminology:

In this document:

'Child' means any person below the age of 18 years.

'Deprivation of liberty' means the placing of a child in a secure setting (i.e. one which the child is not free to leave at will) by order of the court or other authority.

'Secure establishment/setting' refers to provision designed to care for children deprived of their liberty.

'Prison(s)' refers mainly to young offender institutions and secure training centres but may also apply to other settings that have a punitive ethos and environment, and do not meet the minimum expectations outlined in this document.

Image courtesy of the prison art charity the Koestler Trust.
The Writing's on the Wall, HM Prison and Young Offender Institution Cookham Wood

What is this about?

In November 2018, a group of non-governmental organisations launched a campaign to end child imprisonment, press for the closure of children's prisons in England and seek changes in law and practice to ensure that children are only deprived of their liberty as an absolute last resort. (The campaign's aims are listed at the end of this document.)



The campaign recognises that it may be necessary, on occasion, for a small number of children to be placed in secure provision. In those circumstances, it is imperative that children are accommodated in environments where they are safe and their needs are met.

This document, produced by the End Child Imprisonment campaign steering group, establishes a number of principles and minimum expectations that should apply whenever children are deprived of their liberty and against which the suitability of the placements in which they are accommodated can be assessed. These are not intended to provide a 'blueprint' or minimum standards that give a detailed account of how establishments should operate. Rather, they aim to offer a set of high-level principles that should inform decisions concerning the deprivation of children's liberty, the process by which that happens and the expectations that any establishment which accommodates children deprived of their liberty should be able to meet if they are to be regarded as fit for purpose.

For the avoidance of doubt, prisons can never meet these principles and minimum expectations. Prisons are seriously harmful to children and their use cannot be justified.

All children share the same fundamental needs and rights. Children whose behaviour is such that it is not safe for them to live freely in the community have a variety of additional needs which require very skilled care, whether the serious risk they pose is to themselves and/or others. They require special protection and safeguarding which is informed by an understanding of the inherent risks of closed institutions. The principles and expectations set out below therefore apply to all children held in secure environments, whether this has arisen through a criminal justice, health or social care process.

The document has been drafted to conform with, and expand upon, the latest developments in international children's human rights obligations and standards. It builds upon the Committee on the Rights of the Child's interpretation of the UN Convention on the Rights of the Child's obligations, elucidated both through its examinations of individual countries and publication of general comments. It reflects too the findings and recommendations of other international and domestic human rights bodies.

Children's human rights standards themselves evolve from the lived experiences and perspectives of children, from an understanding derived from professional practice by those working with, and for, children and the research evidence base. Accordingly, the steering group commits to revise and update this document as learning and international standards develop.



Thresholds for depriving children of their liberty

1. The restriction of liberty is harmful to children, irrespective of their circumstances; it is injurious to their normal healthy development. It takes them away from their parents and carers, families and communities and, if in school, can be seriously disruptive to their education. As an experience that touches a very small number of children, the vast majority of whom come from already marginalised communities, it carries a social stigma and risks the child being labelled for many years to come. It prevents regular childhood behaviour such as self-directed play and recreation and relationship-forming, and interrupts the ordinary developmental process of 'growing up'. Placing very vulnerable children together, in an environment which can stretch even the most skilled professional, also presents formidable safeguarding, and other, challenges.

As a matter of principle, therefore, children should only be deprived of their liberty as a last resort.

2. In practice, this means that:

- Children should only be deprived of their liberty when they pose a serious risk to themselves or others, and there are genuinely no alternative options for mitigating that risk in the community. (Alternative options must be tailored to each child's needs and circumstances and can involve drawing together a range of family support, education, youth and child health services and, where required, alternative forms of care and accommodation); and
- Children who are sufficiently vulnerable to merit placement in a secure setting must receive special protection and assistance; and
- The duration of any episode of detention must be as short as possible; while in secure facilities, children will enjoy as much liberty (that is 'ordinary' conditions of childhood) as is compatible with the risk they pose; and they should be discharged at the point they no longer present a serious risk to themselves or others; and
- Punishment and deterrence should play no part in deciding whether a child is to be removed from the community or should remain in a secure setting. Deprivation of liberty for an additional period must not be imposed as a sanction for challenging behaviour while a child is in a secure setting; and

- The relative financial costs of addressing risk in a secure setting or in the community must play no part in decision-making.
3. The focus of work with children placed in secure care is to support them to change their harmful behaviour by addressing their underlying needs and encouraging healthy development. This will be achieved by the establishment of supportive and respectful relationships that enable children to feel safe and secure and to develop trust, self-awareness, a sense of agency and regard for themselves and others. In most instances, it will also require work to alter the environment, in the community, to which they will return.



The process for depriving children of their liberty

1. Decision-making in relation to deprivation of liberty must be transparent. Children must have the right to specialist representation, by professionals with particular expertise, including knowledge of children's rights and advocacy skills, who can ensure that their views are heard, listened to and taken into account. Decisions must be informed by an understanding of the child's perspective of what their needs are and their current circumstances.
2. If a decision is taken to deprive a child of their liberty, written reasons for considering that the relevant thresholds are met, and a full explanation of why assessed risks cannot be accommodated in the community, must be given. Children must have the right of appeal against decisions made about them and must receive advice and specialist representation to ensure that this right can be properly exercised.
3. Deprivation of liberty must be subject to regular independent review to determine whether the criteria for continued detention are satisfied. Children in secure settings must have access to independent advocacy services. Planning for the child's return to the community must commence immediately after they enter a secure establishment to ensure necessary levels of care and support are in place to allow discharge at the earliest possible opportunity.
4. Children's privacy must be fully respected at all stages and children's anonymity guaranteed. That anonymity must extend into adulthood and be lifelong.



The provision of accommodation for children deprived of their liberty

1. Responsibility for securing sufficient provision to meet children's needs, and for ensuring effective arrangements are in place to safeguard and promote children's welfare and rights in secure settings, must reside with a government department responsible for other services to vulnerable children.
2. Secure provision must be subject to regular, independent, inspection (announced and unannounced) by those with a specialist knowledge of issues pertaining to the deprivation of liberty of children and human rights protection. Children's views and experiences within the placement must play a critical role in judgements about the quality of care, and standards of safety and effectiveness. Parents and carers must be positively engaged in the inspection process.
3. Secure provision must be closely integrated into local, community-based, mainstream services for children and specialist provision for vulnerable children in need of care, education, health, support and/or protection. Children accommodated in secure settings must have access to the same complaints procedures as other vulnerable children, including advocacy support to enable them to express their views.
4. Secure settings must be closely aligned with, and integrated into, safeguarding arrangements for other children both in the local community, and in the children's home communities, to ensure external, independent, scrutiny and accountability. Safeguarding partners for the area will produce, with the establishment and other professionals who have regular contact with children deprived of their liberty, a policy setting out the arrangements for responding to concerns about children's safety and welfare; ensuring that statutory duties are complied with; and making sure that any potential harms to children are quickly identified and remedied. Children and parents will be consulted during the development of this policy. The policy must be publicly available to professionals and, in an accessible format, to children and their families. It must be reviewed annually. Information about any identified concerns, and agreed actions to address them, will be provided to the home safeguarding partnerships of relevant children.



5. Establishments which provide accommodation for children whose liberty has been restricted must:

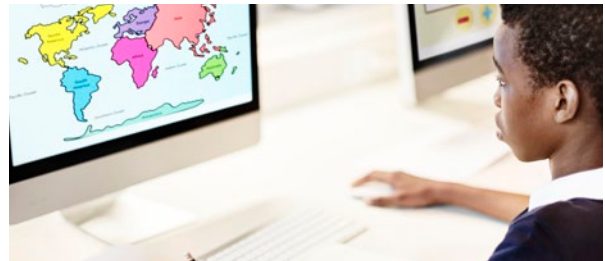
- Be small – a maximum capacity across the establishment of 30 children, with living units accommodating no more than 8 – 12 children to ensure that each child is able to develop meaningful relationships with the children they live with and the professionals who care for them; and
- Be located close to the child’s community – to allow ongoing involvement of family, carers, friends and relevant professionals in children’s care while they are placed away from home; and
- Have premises that are homely and provide an environment that emulates home life, where staff eat meals with children; and
- Provide facilities for families to visit and stay overnight. Families should be welcomed and shown around living areas and be able to spend time with their child in private (including their bedroom), unless this is demonstrably unsafe; and
- Have sufficient staffing, resources and facilities to ensure that all children’s physical, psychological, emotional, developmental, linguistic, cultural and religious needs are met, including space for children to spend quality time with families, carers, friends and others who are important to them; and
- Have sufficient staffing, resources and facilities to ensure the provision of high-quality education and health care, whether delivered within the establishment or the community; and
- Have extensive access to outside space in order that children are able to exercise, play and enjoy fresh air to a level consistent with their well-being and healthy development.



6. Establishments which provide accommodation for children whose liberty has been restricted must be organised around a clear set of coherent values that are effectively communicated to children, families and professionals working within and outside the establishment. Secure settings will:
- Be underpinned by a manifest commitment to children's rights that actively values each child's dignity, worth and potential; and
 - Have a 'theory of change' that enables staff working in the facility to develop a clear understanding of their role in care planning, how children's individual needs can be met, how behaviour and risks can be constructively managed and healthy development encouraged; and
 - Have a childcare-based ethos that seeks to maximise the child's well-being and healthy development and prepare them for a return to the community at the earliest opportunity; and
 - Have an indefatigable commitment to helping children recover in safety from abuse and other trauma; and
 - Ensure that children have access to the full range of services necessary for healthy development, as required to meet their needs and at least at the same level and quality as children in the community; and
 - Ensure that children's wishes and feelings are central to care planning and that children are supported to be fully engaged in planning for their future; and



- Promote the involvement of families and other significant persons in the child's life in their care, both while they are in the establishment and when they return home; and
 - Value parents' or carers' knowledge and understanding of the child and use it to inform the services and support provided to the child while they are in secure care; and
 - Encourage and facilitate the involvement of professionals who have worked with the child in the community and those who will work with the child when they return to the community; and
 - Commence planning for discharge as early as possible; plans should specify how risks posed by the child will be addressed to allow a return to the community; plans should also have regard to the environment to which the child will be returned, what support is required in the community and how such support will be provided; and
 - Undertake meaningful 'exit' interviews with children and, wherever possible, their parents to reflect on the child's time in the establishment and whether any improvements could be made for other children in the future; and
 - Allow the child as much freedom as is consistent with the risk they pose. Establishments should encourage a phased return to the community that affords children as much experience as possible outside of the secure perimeter and levels of staffing must be sufficient to facilitate such freedom:
 - Children should attend education, training or employment in the community wherever possible
 - Where circumstances allow, visits home, including overnight or weekend visits, should take place regularly.
- When children are outside of the secure establishment, any security arrangements must be as discrete as possible.
- Provide aftercare support and an outreach service to children when they leave the establishment to support their return to the community and maximise the prospect of successful reintegration.



The workforce

1. All staff working in secure establishments must be highly skilled in, and committed to, working with vulnerable children. They will have been appointed following a robust recruitment process which tests motivation, resilience, professional ethics and prior experience of working with children in a residential setting. Staff must put the child's interests above those of the institution, and be able to identify and constructively challenge poor practice.
2. The staff complement must encompass a multi-disciplinary workforce that can form a comprehensive team around the child, with the expertise to address the full range of his or her developmental needs, work constructively with families and harness resources on behalf of individual children.
3. Staff must enjoy a high level of professional discretion, consistent with their qualifications and skills, and be empowered, through organisational support and supervision, to look after the children in their care in accordance with their individual needs and circumstances and to meet their best interests.
4. Secure establishments will be managed by individuals with a proven track record of promoting and protecting the rights of children in a residential environment. They will be able to command respect within and outside the secure setting as highly experienced professionals working with and for children and young people.
5. Secure settings will have a senior manager who leads on children's rights and is the designated officer for safeguarding.
6. There will be clear, and transparent arrangements, subject to independent and external oversight, for dealing with allegations of staff misconduct and disciplinary proceedings against staff relating to the care of children.



Expectations associated with secure settings' culture and work with children

1. Children will enter, and leave, the establishment with supportive adults who know and care for them. These supportive adults will be encouraged to take an active role in helping the child settle into the establishment.
2. Secure settings will actively promote a culture of tolerance, non-violence and respect for each person's dignity and worth.
3. Work with children in the setting will be based on the establishment of safe and respectful relationships that enable children to achieve positive change. Such relationships will demonstrate that the child is valued, offer encouragement and praise, and help the child to understand the consequences of both their positive and negative behaviour for themselves and others.
4. Staff will be trained and supported to model positive behaviour, to identify and deal with children's anxiety and distress and to de-escalate conflict. They will understand the effects of abuse, neglect and trauma on children's feelings, development and behaviour. Relationships between staff will provide children with models of positive and respectful interpersonal interaction.
5. Behaviour which is harmful will be challenged constructively without resort to punishment, force or humiliation. Restrictions imposed will be the minimum necessary to ensure the safety of the child and others. Punitive or deterrent responses, such as the imposition of restrictions on visits or delayed return to the community, will not be used. Restricted access to activities will be the minimum necessary to avoid harm to the child or others.
6. Responses to challenging behaviour will vary according to the needs of the individual child and their previous experiences. The care plan, developed in partnership with the child, will reflect such differences to ensure that responses to behaviour are not experienced as humiliating or (re)traumatising by that individual.



7. Physical restriction will only be used as a last resort, in those rare circumstances where it is necessary to ensure the immediate safety of the child or others. The extent of force used will be the minimum consistent with achieving that purpose. Permitted methods of restraint will be specifically designed and approved for use with children, and staff will be trained, and supported, to use them safely and in appropriate circumstances. The use of restraint will be underpinned by transparency: accessible, clear, information on the methods that may be used within the setting will be available to children, their families and other professionals. Care plans will indicate any instances in which particular forms of restraint are to be avoided in the light of the individual child's needs and previous experiences. The deliberate infliction of pain is not permissible.
8. All uses of physical restriction will be recorded, reviewed and reported to the child's family, professionals involved with them and appropriate safeguarding authorities. Children subject to restraint will receive advice and assistance from independent advocates; advocates will attend reviews with the child and support them to participate fully in the process and ensure that their views are given due weight. Settings will be committed to learning from the use of restraint and reviews will lead to the identification of staff's learning and support needs to ensure that restraint is used as a last resort and in an appropriate way. Children's individual care plans will be reviewed after each episode of restraint and amended if necessary to reduce the need for future restraint.



9. Children will only be separated from their peers where it is assessed as being in their own interests or is necessary for their own protection or to avoid harm to others. Episodes of separation should be for the minimum necessary period and will result in the child being in a safe, comfortable and inviting space with a range of positive activities to engage them. Episodes of separation will be subject to regular, and frequent, review by health staff, care staff and senior management. Parents and carers, and relevant professionals in the community, will be notified if their child is separated from the establishment's ordinary routines.
10. Complete isolation will never be acceptable. Children who are separated from the main group of their peers will, wherever possible, have continued engagement with other children with whom they can safely mix and should continue to receive suitable education and to participate in activities to the maximum extent consistent with the circumstances and their needs. All children subject to separation will continue to have access to positive and meaningful engagement with experienced staff whom they know and trust.
11. All uses of separation will be recorded, reviewed and reported to the child's family, professionals involved with them and appropriate safeguarding authorities. Children subject to separation will receive advice and assistance from independent advocates; advocates will attend debriefing sessions with the child and support them to participate fully in the process and ensure that their views are taken into account. Settings will be committed to learning from the use of separation and reviews will lead to the identification of staff's learning and support needs to ensure that children are separated from their peers as a last resort and for the shortest period possible. Children's individual care plans will be reviewed after each episode of separation and amended, if necessary, to avoid the need for future separation.
12. Details of confidential telephone helplines, including those operated by Childline, independent advocacy services, local authorities, the Children's Commissioner, and the Howard League for Penal Reform, will be prominently displayed within the setting and advertised widely to children's families. Children will have access to free, private, telephone facilities within their bedrooms to ensure that they can make use of such helplines whenever they require professional support from outside the establishment.



Expectations associated with the child's return to their community

1. Children leaving a secure establishment will be accompanied by supportive adults who know and care for them and will be able to provide assistance as they settle back home, or move into their new home.
2. It is the responsibility of all professionals working with children, both within the secure setting and the community, to ensure that arrangements are in place to allow a successful and safe transition to the community well in advance of discharge. Such arrangements will include:
 - Safe accommodation that meets the child's individual needs and reflects their wishes and feelings; and
 - A high level of support and care from reliable and trusted adults; and
 - Access to the full range of services, and professional support, necessary to meet their needs; and
 - Access to appropriate training, education and constructive activities in alignment with the child's needs, preferences and interests.
3. Relationships built between staff and children within the secure environment will not end abruptly when the child leaves but will form the basis for facilitating a successful transition. Staff from the secure establishment will work with professionals in the community to ensure that the understanding of the child's needs developed while in the secure setting contributes to care planning for their return to the community. Such staff will provide aftercare support to children and will continue to work with them until they are properly settled into the community.
4. Secure establishments and other professionals working with children deprived of their liberty will be committed to continued improvement and to learning from the lived experiences of children. Exit interviews will be undertaken in a manner that ensures that children can report honestly on their experiences. Other data-gathering mechanisms that allow monitoring of outcomes in terms of the child's short and longer-term developmental needs, and the identification of gaps in service provision, will be in place.



The End Child Imprisonment campaign will:

- Press for the closure of England's child prisons and raise awareness of the harms of child imprisonment.
- Propose a child welfare-based and human rights compliant secure model for the small number of children who cannot be safely looked after and supported in the community.
- Push for responsibility for detained children to be moved out of the government department that deals with adult imprisonment. At a local level, responsibility for the care and support of detained children must lie with children's social care services.
- Seek changes to law and practice so that deprivation of liberty is an absolute measure of last resort, leading to substantially fewer children being detained.
- Remove punishment and deterrence as reasons for locking up children.

Contact

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www.article39.org.uk/endchildimprisonment

EndChildimprisonment

Article 39

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AND JUSTICE STUDIES

Howard League
for Penal Reform

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TRUTH, JUSTICE & ACCOUNTABILITY

Standing up for kids
JUST FOR KIDS



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Justice for Children in Trouble
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End Child Imprisonment is a broad-based campaign. Not all of our supporters will necessarily agree with all of the contents of this publication.

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