



Setting the youth justice agenda

**AYJ briefing for the
incoming government**

About the AYJ

The Alliance for Youth Justice (AYJ) brings together 80 non-profit organisations, as a movement to drive positive change in youth justice for the benefit of children, young people and society. Our work is shaped by children and young people with lived experience of the youth justice system, and the organisations working with them – we amplify their voices to develop solutions, share learning and influence change.

About this briefing

Developed through consultation with our members and informed by evidence from children and young people,¹ this briefing sets the youth justice agenda for the incoming government. We present the changes new Ministers must prioritise to work towards a society that promotes social justice and enables all children to reach their full potential.

The incoming government must be ambitious about reimagining what ‘justice’ means for children, in order to achieve a safeguarding response to children at risk, promote racial justice, and ensure the use of custody is a last resort. Only then will the costly cycle of harm and offending be stopped, enabling all children to thrive.

- A change in oversight and accountability is required to ensure children in or at risk of involvement in the justice system are treated as children.
- Resources should be invested in local communities to support their children and aid prevention and desistance from crime, rather than in costly crisis intervention and punitive responses.
- Clear strategies are needed to drive policy and practice change to keep children safe, end the imprisonment of children, and target and tackle racial disparities.

This briefing provides a short overview of the issues and solutions to them, and we offer our ongoing support in further developing these much needed reforms through engagement with our expert members.

SEPTEMBER 2024

The incoming government's priorities for youth justice must include:

1. Leadership and accountability

A government department with responsibility for all children, led by a Secretary of State for Children, to oversee a children's rights strategy

2. Support and safeguard

A Child First approach to keeping children safe that enables local support for prevention and diversion over punitive action

3. Racial justice

A clear plan of action to tackle cumulative discrimination and disadvantage before, during and after children's contact with the system

4. Custody as a last resort

A comprehensive, long-term strategy for keeping children out of custody and closing harmful child prisons

The incoming government must be ambitious about youth justice, to support children to thrive and stop the costly cycle of harm and offending

Commendable progress has been made towards a child centred approach to youth justice, but significant issues remain.

Children in the youth justice system are some of the most vulnerable in society, and have common experiences of adversity, trauma, exclusion, marginalisation, and mental ill-health.¹ Contact with the youth justice system is harmful, counterproductive, and must be avoided wherever possible.²

Momentous efforts in recent years have led to laudable progress to reduce the number of children entering the justice system and to adopt Child First approaches to youth justice: focussed on seeing children as children, developing pro-social identities, collaborating with children, and promoting diversion.³

However, youth justice is now at a critical juncture.⁴ Contact with the system increasingly disproportionately impacts certain groups such as racially minoritised children, neurodiverse children, and children with care experience and Special Educational Needs (SEN). The UN Committee on the Rights of the Child's concluding observations of its 2023 examination of the UK were damning on youth justice. The Committee called for the government to prioritise making progress on youth justice to bring the UK in line with its international children's rights obligations.⁵

Evidence from our members and children and young people, alongside academic research, reveal key barriers in desperate need of focus:

1. The response to children at risk of entering the justice system too often fails to recognise vulnerability and exploitation and prioritise safeguarding
2. Racial disparities have increased and Black and racially minoritised children continue to experience grave injustices
3. Children continue to be sent into a failing and extremely harmful secure estate

Children's unmet welfare needs are increasing, yet decision-makers too often remain focussed on policing as the solution to social problems, and punitive attitudes pervade. The latest annual statistics show an increase in First Time Entrants to the youth justice system for the first time in the last ten years.⁶ There is a significant risk that without coordinated and concerted action, there will be an increase in criminalisation, racial injustice, and imprisonment of children in coming years.

The incoming government must be committed to challenging and resisting this by reimagining what justice means for children. While there are issues in need of attention across the youth justice system, this briefing sets key priorities to guide Ministers' first months in office.



1. The incoming government should create a department with responsibility for all children, led by a Cabinet Minister, to oversee a children's strategy.

Strong leadership and a shift in oversight and accountability are required to ensure vulnerable children in or at risk of involvement in the justice system are at the heart of policy and practice.

The division of departmental responsibilities in government has undermined progress towards achieving a welfare-based safeguarding response to children at risk, promoting racial justice, and ensuring custody is a last resort.

Despite the wealth of evidence that children in conflict with the law are often extremely vulnerable, they are too often viewed as and treated separately to other vulnerable children. Involvement in crime is frequently the point where a child stops being seen as a child with welfare needs and starts being seen and treated as an 'offender'.

Within government, children in or at risk of involvement in the youth justice system fail to be a priority. They are impacted by policy decisions across multiple government briefs, all with differing understandings and priorities. In Department for Education policy, for example, children at risk are too often considered to be the responsibility of the Ministry of Justice or Home Office. While in those departments, children are a side-lined minority in justice and crime reduction systems designed for and focussed on adults.

The Ministry of Justice and Home Office ownership of policy related to children in or at risk of involvement in the criminal justice system, and the segregation between these departments and those responsible for children more broadly, leads to vulnerable children being seen in a punitive light, being criminalised rather than safeguarded, and treated as mini-adults rather than children. Children in custody are managed by the Youth Custody Service, sitting within HM Prisons and Probation Service, where prison service culture has a strong influence and children are frequently an afterthought in policy. The wider estate of Secure Children's Homes, meanwhile, is the responsibility of the Department for Education.

Recent events also show the youth justice system is vulnerable to being treated as backup for a failing adult system: due to capacity issues in adult prisons a third of those held in children's Young Offender Institutions were aged 18 and over in 2023;⁷ and as adult probation faces a workload crisis, calls are being made for Youth Offending Teams to take on the supervision of 18-21-year-olds.⁸ While there are good reasons to continue supporting young people beyond their 18th birthday on a case by case basis, overloading the children's system with young adults, particularly without proper consideration, preparation, and resourcing puts children's rights at risk, waters down children's provisions and jeopardises the Child First approach.

The impact of the disconnect in children's policy is particularly stark when considering racial disparities in youth justice. It remains unclear where accountability and oversight sit for addressing racial injustice, and responsibility is shifted around by departments claiming the problem lies elsewhere along the child's pathway into and through the justice system.

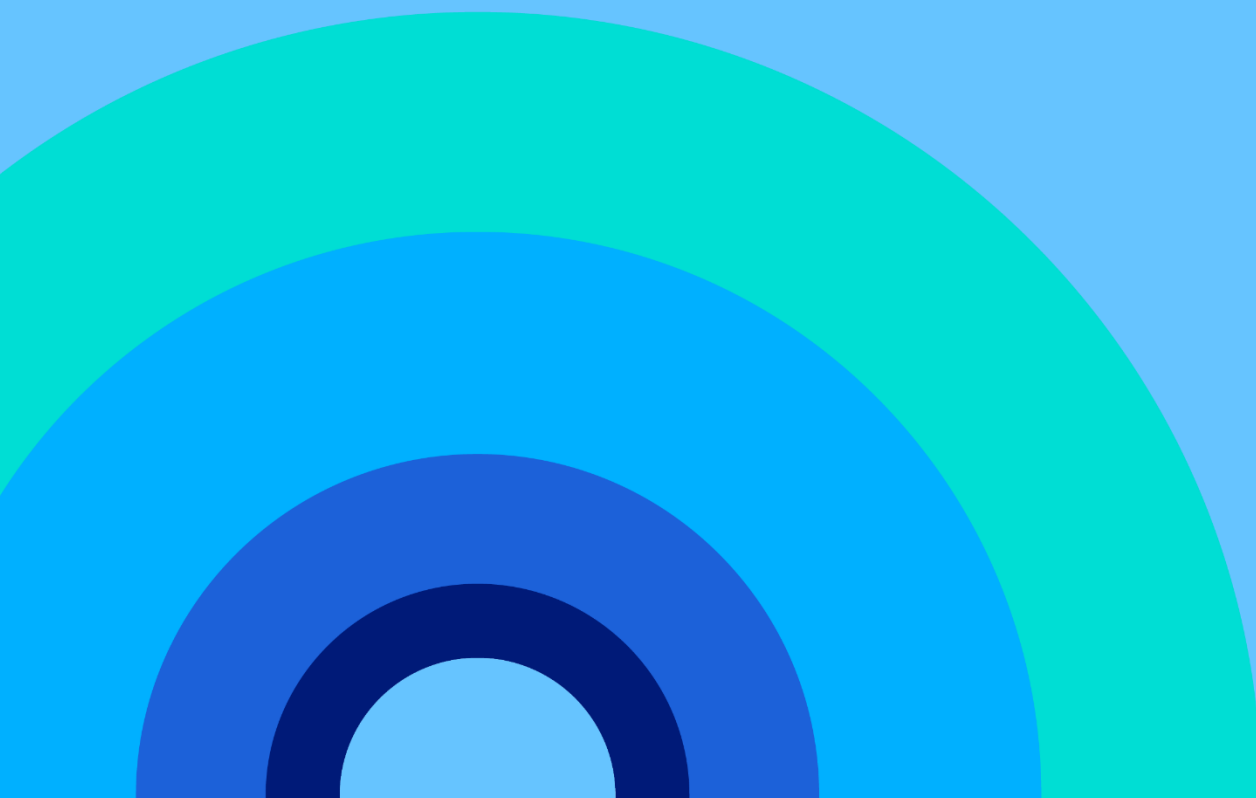
Where welcome initiatives have been underway for vulnerable children, they are spread across different government departments, disjointed and lacking a coordinated approach. Multiple government departments are pursuing policies and programmes of work without consideration of how these various components might complement or contradict each other, where they overlap or where they leave gaps for children to fall through.⁹

Recognising deficits in departmental responsibilities, the Independent Review of Children's Social Care called for youth justice policy to move to the Department for Education; and the Independent Inquiry into Child Sexual Abuse recommended a cabinet-level Minister for Children.

An overarching role-holder to lead a children's rights strategy is critically needed, guaranteeing that children in or at risk of involvement in the justice system are taken into consideration by those also responsible for the care of other vulnerable children, and ensuring they are viewed and treated differently to justice-involved adults.

Recommendation: Create a truly child centred government department, led by a Cabinet level minister, that makes decisions for all children

Appoint a Secretary of State for Children, leading a Department for Children.



A Secretary of State for Children

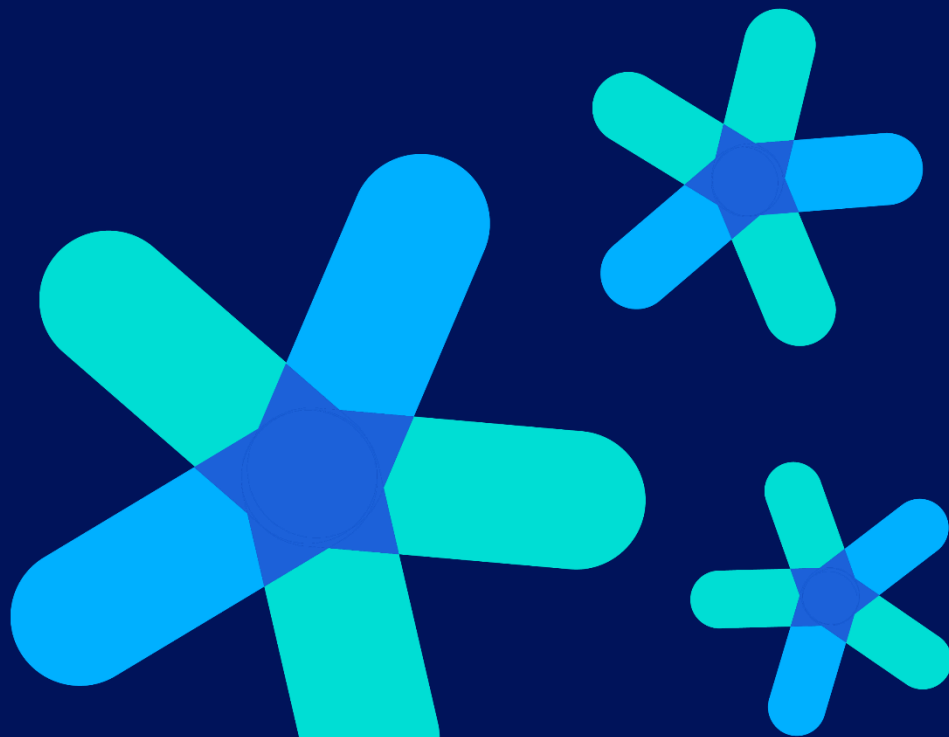
A child-centred government department with responsibility for all children

The Department for Education to become the Department for Children, with an expanded role including the transfer of the following responsibilities:

- Ministry of Justice: youth justice policy and the Youth Justice Board
- HMPPS: Youth Custody Service
- Home Office: safeguarding and extra-familial harms policy
- Department for Digital, Culture, Media and Sport: youth services

The Department for Children to be led by a Secretary of State for Children, who would oversee a cross-government children's rights strategy aimed at embedding the Concluding Observations of the UN Committee on the Rights of the Child, including plans for keeping children safe, promoting racial justice, and ensuring custody is a last resort.

The new Children's Secretary to have oversight responsibility for areas impacting children outside of the Department, for example housing, health, mental health, work and welfare, ensuring cross-departmental working and that policy in these areas is informed by the children's rights strategy.



2. The incoming government must commit to keeping children safe and out of the justice system with an approach focussed on prevention and diversion.

A shift is needed away from costly crisis intervention and punitive responses towards investing in communities to work together to support children before needs escalate.

Children involved in crime often face multiple disadvantages and are frequently victims of crime, violence, and exploitation.¹⁰ Yet narratives around crime and the children affected, including unhelpful focusses on 'anti-social behaviour', 'youth violence', or 'gangs', often fail to recognise this, driving punitive criminal justice responses.

Contact with the justice system is inherently harmful to children. It is criminogenic, and avoiding involvement is more effective at reducing offending than punitive responses.¹¹ Many children naturally mature out of crime, going through a 'phase' of offending and then desisting entirely.¹² Criminal justice contact can act as a key moment when behaviour begins to negatively spiral: it creates and reinforces criminal identities in children.¹³ When the justice system intervenes, it is often in place of other, non-criminalising support, and after contact with the system, children may be left with lifelong criminal records that prevent them from reaching their potential. Keeping children out of the system is therefore a key tenet of the Child First approach to youth justice.¹⁴

Crime and violence must be understood in its context: social harms, state failure, and structural violence.¹⁵ Long-term, sustainable solutions lie outside of the criminal justice system, and tackling clear social determinants of vulnerability, crime and violence is an essential foundation.¹⁶ Children are being harmed by austerity, poverty, inequality, intergenerational trauma, toxic stress in family households, unstable housing, unsafe communities, and limited high quality employment opportunities. Children are put at risk by a care system in crisis and not designed for harms children face today; school environments struggling to meet needs and overly reliant on exclusion; decimated youth services; a mental health service that can't keep up with demand; a SEN system with significant barriers in accessing assessments and support; and a response to criminal exploitation that fails to identify victims, does not provide timely referrals and adequate support, and criminalises children for their victimisation.

Government policies over the last fourteen years have left an increasing number of children vulnerable.¹⁷ Across multiple institutions that are supposed to keep children safe, children are being inadequately safeguarded and left at risk.¹⁸ All too often families are reaching crisis point before receiving any support.¹⁹ Intervention comes too late, at which point the cost is high, both to the children harmed and to public expenditure. Social harms disproportionately impact certain groups such as racially minoritised children, and can be exacerbated, for instance for girls, by other inequalities that affect their lives.²⁰

Too often, police are called upon as the default service in society to 'keep children safe', resulting in a response that is overly focussed on enforcement, when safeguarding and social care support must be the priority. With thousands more police on the streets, at the same time that welfare needs have increased and support services are under severe pressure, more children may end up criminalised in place of receiving the support they need. This risk is heightened by police presence in schools, use of stop and search, inadequate training, and a failure to implement child-centred policing, meaning police regularly harm children, escalate interactions, and pull children into the justice system.

For children coming into contact with criminal justice, there has been a positive movement towards diversion away from the formal system in recent years.²¹ However, practice is inconsistent, it is unclear whether children are receiving support to address their behaviour and needs, particularly whether it is culturally- or gender-specific, and cases that should have been diverted or identified as related to exploitation still proceed to court and prosecution.²²

Local partnerships play a critical role in keeping children safe and joining the dots between children's behaviour, the risks they are facing and the support they need. However, particularly given the strain individual agencies are under, multi-agency arrangements are not always living up to their full potential. Agencies, such as housing, are not always as involved as they need to be, and it is not always clear how well mainstream services are identifying and coordinating around children vulnerable to contact with the justice system. The response to these children must be rebalanced away from the police, towards a multi-agency safeguarding approach.

A key element of any multi-agency approach must include local voluntary and community sector (VCS) organisations, alongside statutory services. The VCS can provide tailored, preventative and rehabilitative support, ensuring children's needs are met, they have access to purposeful activities and trusted relationships, and are supported to develop pro-social identities. VCS organisations are able to deliver such support, in a flexible way, responsive to children's individual needs and less restricted by the thresholds, set intervention timescales, and local and central government boundaries that statutory services must observe.

Grassroots organisations and community leaders are often already working tirelessly to support local children but informally, without payment or recognition. Issues with funding and partnership arrangements stop the VCS from reaching children who need their support. Funding is too often short-term and project-based, delivered through dysfunctional competitive processes which pitch VCS organisations against one another – undermining financial security and collaboration which enables VCS organisations to best serve children. Partnership arrangements between VCS and statutory bodies are not always grounded in mutual respect or understanding of agencies' complementary roles.

To prevent a rise in the criminalisation and victimisation of children, the incoming government must ensure responses to children at risk recognise the complex interrelationship between vulnerability, victimisation and involvement in crime.

It must recognise the inherent harms of the criminal justice system, focus efforts upstream on keeping children out of the system, and ensure where interactions with police and criminal justice do happen, the priority is making the child safer as a result. This must include re-balancing resources away from policing towards supporting localised multi-agency solutions and community-led services.

Recommendation: Ensure a Child First approach to keeping children safe, enabling local support for prevention and diversion

Cross-government action must take into consideration the strong evidence-base about what works to deter crime, how best to support children to flourish, address their vulnerabilities, minimise their contact with the justice system, and ensure they are made safer after such contact. The strategy must enable adequately resourced local multi-agency approaches, including:

- Rebalancing funding towards preventative services, ensuring the response to children at risk of involvement in the justice system prioritises safeguarding and support
- Ensuring VCS organisations are enabled to deliver community-embedded, relational and flexible support for children
- Ensuring policing takes a child-centred approach nationwide

A Child First strategy for keeping children safe

Rethink the response to vulnerability and rebalance government funding

- Enhance cross-departmental central government focus on tackling the root causes of crime, such as inequality, exploitation, and underlying needs
- Review the distribution of government funding to identify where resources can be redirected away from the current overreliance on policing and criminal justice towards investment in prevention, early intervention and specialist support for children at risk, across education, social care, mental health, housing, employment, youth work, and community-based services and support
- Adopt a holistic public health perspective to violence which addresses its known social determinants and mobilises the evidence about effective policies and interventions. This entails both national action to address nationwide problems such as housing and poverty, and highly localised, contextualised responses to neighbourhood issues, looking holistically at children's lives to make better connections between violence inside the home, outside the home, and state violence
- Rebuild communities' social infrastructure and youth provision, reducing the need for later spending on crisis support and institutionalisation. Focus on historically under-resourced neighbourhoods and building upon grassroots initiatives to create safe, nurturing environments for children

Harness the potential of multi-agency approaches

Review local partnerships to identify:

- The resources and support required by individual agencies to enable them to effectively participate in and contribute to multi-agency partnerships
- How innovative policy and commissioning can better enable and support partnerships to develop their own solutions, at a localised level
- How multi-agency arrangements could be strengthened and rebalanced to ensure all agencies are able to play their part to support children and prevent contact with police and criminal justice. For instance, by embedding youth workers and healthcare professionals rather than police in schools and ensuring these professionals have strong links with other agencies, or by working together to prevent school exclusion
- How links between YOTs, Youth Justice Service Management Boards, children's social care and safeguarding teams can be strengthened

Expand and mobilise the power of the voluntary sector

- Ensure the VCS are consistently, securely resourced to deliver their vital local services and are able to flexibly respond to children's needs, unrestricted by departmental silos
- Ensure that funding for VCS organisations and initiatives encourages collaboration and partnership, aimed at building well-coordinated ecosystems of support for children
- Amend commissioning systems to improve the relationship between the VCS and statutory services, including the justice system, to better facilitate VCS in supporting children at risk of criminalisation
- Ensure the VCS has a strategic voice in multi-agency partnerships

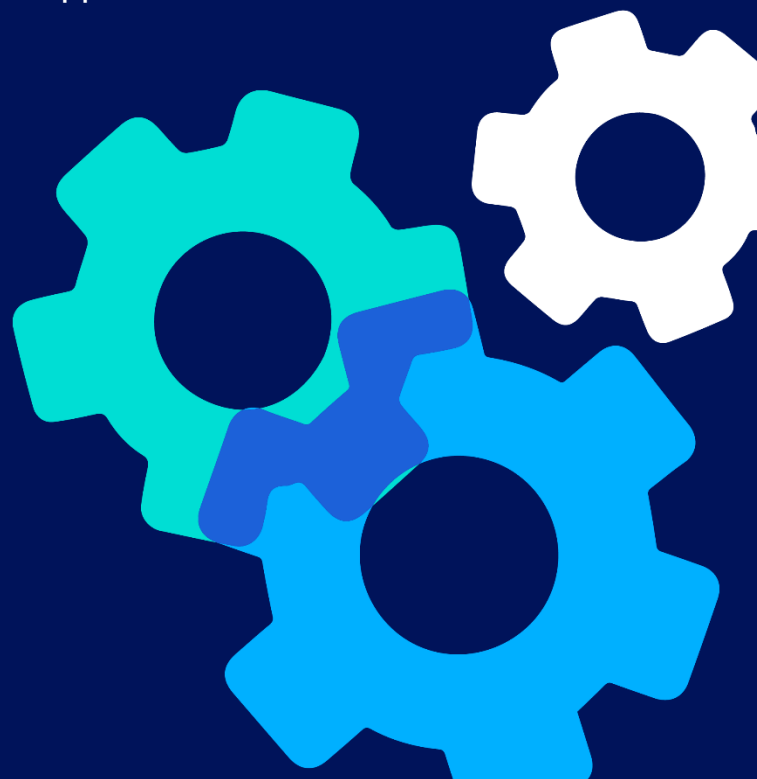
Embed child-centred policing

Too often interactions between children and the police are harmful to the child. For them to help rather than harm, policing must be child-centred:

- The National Police Chiefs' Council child-centred policing principles are strong. They must be embedded on the ground, to ensure children are made safer through interactions with the police and no longer face a postcode lottery in practice across police forces.
- Strong monitoring and oversight of police behaviour to ensure child-centred policing principles are applied in practice
- Improve training for police on identifying and responding to criminal exploitation; effective communication and de-escalation techniques with children; and understanding SEN and trauma
- Improve use of safeguarding referrals following police contact

Diversion, diversion, diversion

- Identify where police and courts' use of diversion from the criminal justice system is working well, and the reforms and measures required to embed good practice and improve nationwide consistency
- Ensure children diverted from the criminal justice system are provided with high quality, tailored support



3. The incoming government must put in place a clear plan of action to tackle cumulative racial inequality before, during and after children's contact with the justice system.

The Lammy Review highlighted racial disparities in youth justice as its biggest concern, yet seven years later inequalities have only worsened.

Racial disparities cumulate at every stage of a child's pathway into and throughout the justice system. Structural racial inequalities impact all aspects of children's lives, from poverty, education, employment, housing, to the care system, physical and mental healthcare. This unequal access to support and opportunities, and deficits and discrimination in the response to vulnerabilities, has a compounding effect of unmet needs, marginalisation, disempowerment, and creating a pipeline into the justice system.²³

Black and racially minoritised children are disproportionately excluded from school, overpoliced, more likely to be arrested, and less likely to be diverted.²⁴ They are more likely to receive harsher sentences and to be remanded to custody.²⁵ Black children specifically face more severe court outcomes.²⁶ Black and racially minoritised children represent half of children in prison, where they consistently report worse experiences and treatment than white children.²⁷

Racial discrimination has been widely reported by children and young people as shaping their entry to, and experiences of, the justice system.²⁸ Hateful narratives and inflammatory language by the media, politicians, and online stokes racialised panic around children and crime, impacting racially minoritised children's treatment by police and the justice system. This racial bias is evident in Joint Enterprise

convictions,²⁹ and the power of harmful narratives has been seen recently with racist rioting across the country,³⁰ demonstrating the ongoing need for concerted efforts to combat racism.

Racially minoritised children are harmed by disproportionate use of force and harmful powers such as stop and search and strip search, by police and others.³¹ These experiences damage trust, meaning when Black children are victimised and exploited they are discouraged from reporting to police.³² Significant deficits have been identified in some Youth Offending Team's work, as well as in the availability of suitable services for racially minoritised children.³³ Adultification bias means practitioners can fail to afford notions of innocence and vulnerability to racially minoritised children, resulting in harsher treatment and criminalisation.³⁴ The criminal records system further perpetuates inequalities in the justice system, creating additional barriers for Black and racially minoritised children and young people by impacting education, employment and housing access.

Many racially minoritised children experience multiple forms of discrimination and disadvantage due to the intersection of other protected characteristics like religion, disability or gender, and other factors such as class and care experience, which overlap and compound each other and impact children's contact with the justice system. Black and mixed heritage boys in the justice system are more likely than others to have an Education, Health and Care (EHC) plan and unaddressed SEN.³⁵ Of children who have been in care, Black, mixed heritage, and Gypsy Roma Traveller children are disproportionately likely to end up criminalised.³⁶ The needs of Black and racially minoritised girls are some of the most acute of the justice-involved population, yet minoritised by both their gender and ethnicity they are systematically overlooked.³⁷

It is seven years since the Lammy Review highlighted racial inequality in the youth justice system as its 'biggest concern' and called for a new requirement across the justice system to 'explain or reform' racial disparities: that if agencies cannot provide an evidence-based explanation for disparities then reforms should be introduced to address them.³⁸ The Ministry of Justice embarked on a programme of activity to implement the review's recommendations, but few were focused specifically on youth justice and no targets or indicators were published for the impact that implementation aimed to achieve.

The latest Lammy Review progress report, in 2020, showed even on an optimistic interpretation less than half of the recommendations had been implemented in full.³⁹ The report contained no thorough assessment of the collective impact of actions taken in response to the review. We do know however, that since the Lammy Review's publication, racial disparity in the youth justice system has worsened.

The last government's flawed Commission on Race and Ethnic Disparities report, and its resultant Inclusive Britain action plan, contained no focus on youth justice. Recent policy changes such as focussing on stop and search and measures in the Police, Crime, Sentencing and Courts Act have been pursued despite acknowledgement they will exacerbate existing inequalities. Where initiatives such as the Police Race Action Plan and the HMPPS Race Disparity Unit have been undertaken, they have lost steam and ability to influence due to a lack of buy in, resourcing, or prioritisation across government and agencies.

The latest annual youth justice statistics show that although Black children remain disproportionately represented across the system, the degree of these disparities slightly decreased in several areas during the year ending March 2023.⁴⁰ Although welcome, without a developed plan, clear targets, and lines of accountability, it is unclear what has driven the slight improvements, and how to secure further progress. Emerging positive practice across local areas needs to be identified and embedded.

Despite acknowledging the issue, successive governments have overseen no substantive change. While more disaggregated data and improved understanding of disparities is clearly needed, gathering more information without taking action in response is simply not good enough. As the UN Committee on the Elimination of Racial Discrimination is calling for, "concrete and effective measures" are required to eliminate racial discrimination, "including its institutional and systemic dimensions," across the criminal justice system.⁴¹

Cumulative discrimination before, during and after children's involvement with the youth justice system must be addressed. Authorities have had years to 'explain' disparities, and explanations are frequently non-existent, unsatisfactory, focussed on pointing fingers elsewhere, or used as an excuse for inaction.

It is time to focus on much needed and long overdue reform and set out a clear plan, with targets and timelines for achieving racial justice. Agencies at each stage must be held accountable for their role in contributing to disparities, and take action to address it.

Recommendation: Implement a comprehensive plan for achieving racial justice in the youth justice system

A cross-government end-to-end national strategy, developed in consultation with Black and racially minoritised children and communities, to ensure unjust racial disproportionality in the marginalisation and criminalisation of children is evidenced, acknowledged, and action is taken to address its cumulative effects, including:

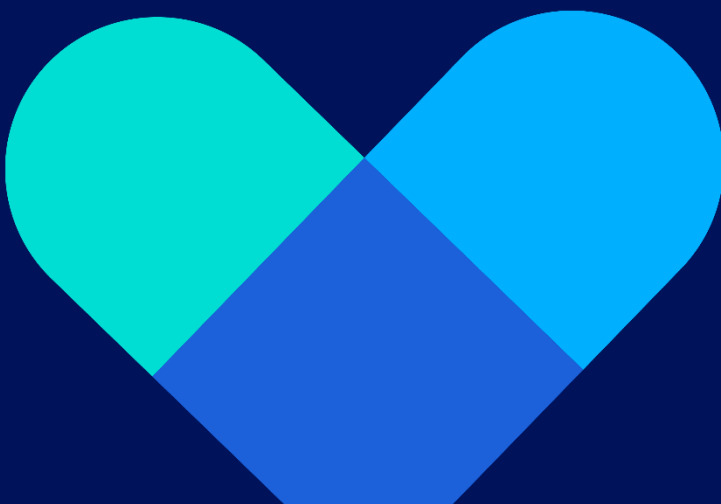
- Accept the existence of institutional racism and establish clear lines of governance and accountability to eradicate it
- Provide comprehensive explanations for disparities accompanied by a programme of reforms to policy and practice that are propagating racial injustice before, during and after contact with the criminal justice system

A Racial Justice strategy for youth justice

Improving oversight and accountability

An action plan, led by a cross-departmental racial justice taskforce with:

- Commitment at a senior level across departments and agencies, including a ministerial brief that includes achieving racial justice in youth justice
- Clear targets, indicators and timescales for achieving the policy and practice change needed
- Clear lines of oversight for identifying where actions agencies are taking to address disparities are insufficient, and holding them to account
- Funding made available for subject-matter experts such as specialist voluntary organisations led 'by and for' Black and racially minoritised communities, to work alongside the government to develop plans and the evidence base, and scrutinise and support the delivery of the plan, for example via a ministerially-chaired external stakeholder board
- Available data and evidence clearly mapped out, identifying and filling gaps, including embedding the 18+1 ethnicity reporting rule
- Updated assessment of the implementation of Lammy Review recommendations, the impact this has had on outcomes and what further action is needed.
- Existing recommendations for change clearly mapped out, assessing their suitability, and identifying further solutions
- Plans for identifying and spreading emerging positive practice



Addressing inequality and preventing disadvantage

Focus on systemic inequalities that are the root causes of racial criminalisation, including:

- Reverse cuts to children's services and youth services that have disproportionately depleted specialist support for Black children
- Target disparities in school engagement, exclusions and outcomes
- Address disproportionately in victimisation of exploitation and violence, and in the criminalisation of care experienced children
- Focus on early identification of SEN and mental health needs
- Tackle adultification, racism, stereotyping and labelling across agencies, and negative racialised media and political narratives
- Specific support for racially minoritised girls recognising impacts of sexual violence, domestic abuse, care experience, and exploitation

Avoiding unfair entrance to the justice system

Tackle persistent disparities at the gateway to the system to avoid injustice, including:

- Focus police resources away from ineffective powers such as stop and search that decrease trust, aggravate racial disparities and tensions, and discourage children from turning to police for help
- Improve understanding of what works in the diversion of racially minoritised children, ensure appropriate conditions and interventions are made available, and remove the need for an admission of guilt to access out of court disposals
- Change the law on Joint Enterprise to significantly narrow the scope of prosecutions

Improving experiences within the justice system

Better meet the needs of racially minoritised children and reduce reoffending, including:

- Fund and facilitate 'by and for' organisations to provide relatable support alongside justice agencies, focussing on positive identities
- Invest in the justice workforce to address the lack of cultural competence, ensure an end to disparities in treatment in particular disproportionate use of force, build confidence in challenging disparities, and improve disciplinary processes for staff that carry out racist actions

Setting the record straight after contact with the system

Enable racially minoritised young people to grow up and move on, including:

- Allow the sealing or expungement of childhood criminal records, mitigating some of the impacts of racial injustice in criminal justice (Lammy Review recommendation 34)



4. The incoming government must develop a comprehensive, long-term strategy for keeping children out of custody and closing harmful child prisons.

Prison is no place for a child, yet children continue to be sent to custody when it is not a last resort. A lack of vision and direction for the secure estate leaves it lurching from crisis to crisis.

The children's secure estate is in dire condition, characterised by incredibly volatile establishments and failing regimes, where children have very limited time out of cell and very poor access to education and purposeful activity.⁴² There have been five Urgent Notifications for the children's secure estate in the last five years.⁴³ The situation of late has been so awful that another establishment has been forced to close down;⁴⁴ guard dogs and stun grenades have been deployed against children;⁴⁵ a girl in a male establishment has been forcibly stripped by male officers;⁴⁶ and the previous government was seriously considering giving staff PAVA incapacitant spray to use on children.⁴⁷

Disparities in youth justice are most acute within the children's secure estate. Neurodiverse children and children with SEN are significantly disproportionately represented.⁴⁸ Around two thirds of children sentenced to custody have received SEN support, and around a quarter have EHC plans.⁴⁹ Around half of children sentenced to custody are a child in need and around a quarter are a child looked after,⁵⁰ and two thirds of children in custody self-report experience of the care system.⁵¹ Children from racially minoritised groups represent more than half of children in custody and 26 per cent of children in custody are Black, compared with 6 per cent of the general population.⁵² Black children are between 2-8 per cent more likely than white children to receive a custodial sentence, controlling for all available variables.⁵³

Despite widespread understanding about key elements of effective child centred establishments, for example providing opportunities for education and training, good quality support in resettlement, enabling a child to remain close to home, and staff that are qualified to work with children, skilled at building strong relationships, and trained in understanding trauma,⁵⁴ the vast majority of children are held in establishments that do not reflect this and have been deemed wholly unsuitable for children.⁵⁵ Three-quarters of children are held in prison-like Young Offender Institutions (YOIs), while only 16% are held in Secure Children's Homes (SCHs), which most closely reflect a caring model.⁵⁶ All girls in custody are extremely vulnerable and require a high level of care, yet since 2021 girls have been placed in a YOI, the institution with the fewest resources to meet their complex needs.⁵⁷

Domestic law and the UN Convention on the Rights of the Child (UNCRC) enshrine the principle that a court must only impose a custodial sentence as a last resort and for the shortest appropriate period of time.⁵⁸ Yet custodial sentencing and remand is not currently used as such,⁵⁹ the UK is consistently found to be in violation of this requirement by the UNCRC Committee.⁶⁰

Children in custody are extremely vulnerable,⁶¹ and negative custodial experiences may exacerbate and compound vulnerabilities, significantly affecting long-term development and life chances.⁶² Evidence does not suggest that custodial sentences deter crime,⁶³ and the detention of children is incompatible with evidence on what brings about desistance from offending.⁶⁴ It is therefore contrary to the principle aim of the youth justice system,⁶⁵ to prevent reoffending.

Years of failures and a lack of direction has led the secure estate to this deeply concerning point, and despite repeated government pledges for improvements, attempts at reform have failed.⁶⁶ While there has been a welcome reduction in the number of children in custody, this has not seen a commensurate improvement in treatment and outcomes. The number of children in custody has fallen in line with overall reductions in youth justice numbers: evidence shows that the more children diverted from court, the lower the use of custody is.⁶⁷ This emphasises the importance of doubling down on efforts to keep children out of the criminal justice system, but also highlights that the door is wide open for a reversal of the downward trend in custody numbers, particularly given the punitive turn towards 'tough on crime' narratives and increasing the use and length of custodial terms.

There is a clear and urgent need for the new government to do all in its power to keep children out of custody.

An ambitious strategy which includes a strategic vision for children in custody is needed, to ensure it is a last resort, and where it is deemed necessary, all children are held in small, welfare-based and rights-respecting establishments close to their home.

Recommendation: Develop a Child First strategy for ensuring custody is a last resort

A national strategy that sets out a comprehensive, long-term vision and clear objectives and actions for the children's secure estate. Developed with cross-government buy-in, with full and open consultation including with children, young people and families. The strategy must set out:

- Steps to ensure custody is a last resort
- A vision for the future estate, including a plan with clear timescales for closing all YOIs and the last remaining Secure Training Centre (STC)
- A robust plan of action for improving YOIs and STCs in the interim

A Child First strategy for children and the secure estate

Ensuring custody is a last resort

Create a clear, restrictive [legislative framework](#) to minimise use of custody and guard against future rises. Distinct, tightened legal restrictions that apply more equitably to all children, minimising racial injustice. The legislative criteria to ensure:

- Custody is only available for the most serious crimes, where the child poses a serious and continuing risk to the public, and there is no way of managing that risk in the community
- The court must explain why a community sentence is not appropriate and obtain assessments and reports on the child prior to sentencing
- Decision-making must be recorded and centrally monitored

A vision for the future estate

The strategy must have a clear statement of purpose for the use of custody for children, with defined ambitions for the future. It must include:

- A commitment to a Child First and child rights abiding estate
- A plan with clear timescales for closing YOIs and STCs, within ten years as recommended by the Independent Review of Children's Social Care
- A plan for increasing SCH capacity, which provide the most appropriate environment currently available
- A statement of intention and plan for the rollout of Secure Schools
- A statement on restricting the use of the children's secure estate to under 18s only, to ensure children's rights and a Child First Approach is upheld, other than on a case by case basis whereby over 18s may be held in the children's secure estate to finish out sentences or aid smooth transitions

A robust improvement plan

The strategy must address the many pressing issues impacting the safety and wellbeing of children currently in custody, improving conditions in the interim before all YOIs and STCs can be closed. It must include:

- An improved oversight mechanism to ensure recommendations from inspection reports, inquiries and reviews are actioned
- A definitive statement around safeguarding procedures
- A clear plan for reducing the use and harms of custodial remand
- A comprehensive race action plan for addressing racial injustice in the use of custody for children, their placements, treatment and outcomes
- A plan for ensuring girls are removed from YOIs and only ever held in SCHs
- A plan for improving workforce culture, ensuring staff values are aligned with Child First principles, staff skills are child care and youth work based, and staff priorities are relationship building and developing positive identities



How can we help?



This document has provided an overview of the challenges and solutions we believe must be top of the new government's agenda. We hope they can steer incoming Ministers' priorities as they take on their new roles.

The Alliance for Youth Justice (AYJ) convenes three expert groups of members working iteratively on these issues (Keeping children safe; Racial justice; Custody as a last resort). We are happy to offer opportunities for Ministers and officials to engage with these groups and our wider membership, to further develop your plans.

While the issues laid out in this briefing are complex, there is a well developed evidence base and a huge amount of fantastic work being done every day to keep children out of the justice system. We want to help the new government to identify this, to make sure appropriate support is available to every child that needs it, to combat challenges they are facing, address their needs, and support them to thrive.

If you would like to arrange a meeting please don't hesitate to get in touch: AYJ Policy Manager Millie Harris millie.harris@ayj.org.uk



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Please note the contents of this briefing do not necessarily reflect the views of all AYJ member organisations

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