



Young Adults in prison during the Covid-19 pandemic

A briefing from the Howard League for Penal Reform

Howard League for Penal Reform

Key points

- Too many young adults are sent to prison
- Many young adults are still teenagers
- Some of them committed their crimes as children but were convicted or sentenced as adults
- Many of them are particularly vulnerable
- Many of them are Black and from ethnic minorities
- Young adults suffer from some of the worst conditions in the prison estate
- The Howard League's legal work and contact with young adults during the Covid-19 pandemic shows that this is a particularly difficult time for young adults in custody
- In response to Covid-19, the regime in prisons has been severely restricted. Young adults are in prolonged solitary confinement. There are no face-to-face visits, no face-to-face education and most support services have withdrawn
- Young adults are experiencing mental health problems as a direct result of the restrictions
- Young adults in the criminal justice system require a specific approach
- Young adults are still maturing, their brains are still developing and they have distinct characteristics and needs
- The terrible conditions in prison should be factored in when making decisions about sending young adults to custody
- Young adults in prison must have access to a decent regime that meets their needs.

The Howard League's legal work with young adults in prison

The Howard League for Penal Reform runs a specialist legal advice service for children and young people aged 21 and under in custody. The Howard League has continued to run its confidential legal service, which includes a telephone advice service available to all young people in custody throughout the Covid-19 pandemic.¹ Between 24 March and 18 June 2020 we received 1,968 calls on our advice line from children and young adults, as well as from their families and other professionals. This briefing draws on the experiences of 27 young adults across 15 prisons during the pandemic. They have described living in solitary confinement for months on end. One young adult told the Howard League that living in prison during the pandemic was “*hell.*” He said, “*I do a lot of sleeping to make the time pass. I sleep, I work out and eat and that is all I do.*”

Young adults in prison

Too many young adults are sent to prison. Young adults aged 18 to 24 make up approximately nine per cent of the general population but around 16 per cent of the prison population.² It does not have to be this way. The number of children in prison has decreased by two thirds in the last decade. While the rate of custodial sentences among young adults has fallen by 40 per cent since 2011, the rate of immediate custodial sentences in this age range remains twice as high as for those over 24, and more than 10 times higher than for those who are under 18.³

Too many Black and ethnic minority young adults are imprisoned. In June 2018, 43 per cent of 18 - 20 year-olds and 39 per cent of 21 – 24 year-olds in prison were from ethnic minorities.⁴

Many young adults in prison are still teenagers. Some of them committed their

crimes as children but were convicted or sentenced as adults. Many of them are particularly vulnerable. Between a quarter and a third of young adults in custody have learning difficulties compared with two to four per cent of young adults in the general population. Over half of young adults in prison have communication difficulties and between a third and a half have experienced a head injury resulting in loss of consciousness. Almost half of young men under the age of 21 who come into contact with the criminal justice system have experience of the care system.⁵

Conditions for young adults in prison

Young adults suffer from some of the worst conditions in the prison estate. In the last decade, incidents of self-harm among this age group have increased to over 15,000 in 2019 (from around 10,500 in 2008).⁶ Between 2006 and 2016, 164 young adults aged 18 to 24 died in custody, 136 of whom took their own lives.⁷ In his annual reports, the Chief Inspector of Prisons has repeatedly raised concerns about the state of prisons holding young adults, many of which hold older adults too. Even before the pandemic, the Chief Inspector found that around 40 per cent of young adults are locked in their cells for around 22 hours each day and often experienced low levels of purposeful activity and high levels of violence and drug use.⁸

Young adults in custody during the pandemic

Custody is a harmful and difficult environment for young adults in ordinary times, but evidence from the Howard League's legal work shows that detention during the pandemic is particularly difficult. Nearly all young adults are currently being held in prolonged solitary confinement. The long hours alone, the lack of stimulation and exercise, concerns about their own health and the health of their families, the lack of face-to-face contact with families, alongside the many other issues created by the severe

restrictions to regimes, has profoundly impacted on mental health. The cumulative strain of these restrictions is becoming increasingly evident. Support services have largely withdrawn and young adults in prison are not getting the help they need.

Most young adults are being held in prolonged solitary confinement

Many young adults have told the Howard League they are spending at least 22 hours a day in their cells. Five young adults reported that they cannot even make phone calls during this time, as they do not have phones in their cells. The internationally accepted definition of solitary confinement is the physical isolation of individuals who are confined to their cells for 22 to 24 hours a day.⁹ After 15 days solitary confinement becomes prolonged, which the Supreme Court has noted can cause irreversible psychological harm.¹⁰ Most young adults in prisons are now routinely held in prolonged solitary confinement.

Lack of education, activities and therapy

Young adults are not getting face-to-face activities or education. Some young adults report having workbooks passed under their cell door but many describe the workbooks as distraction materials consisting of word searches or puzzles rather than formal education.¹¹ A few young adults have described getting individualised coursework that is marked. One person said he had been trying to do an 'A' Level in Business before the pandemic but that he hadn't had any relevant educational materials to do this since lockdown. Whilst most have TVs, young adults report feeling bored and unstimulated and many are frustrated by disruptions to training and education programmes.

Mental health issues and lack of support

Long hours in their cells with nothing to do is affecting young adults' mental health, particularly those with pre-existing conditions. One young adult described his

experience: *"You are 23 hours in your cell with all your mental health issues and I have depression and when you are by yourself you think of stuff and it hits you."*

Another young adult, who suffers from paranoia and anxiety, said he was struggling to keep his food down and he was feeling very anxious. He had been offered 20 minutes out of cell each day but he was too paranoid to take it.

Many are worrying about friends and relatives. One said, *"mainly I am worried about my family – you never know if they will catch it and I don't want to be in prison, hearing my mum is ill and I can't do anything about it."* As support services have withdrawn, most are not receiving mental health support or therapies. One young adult said he feels that his *"PTSD is coming back and there is not a lot of support."*

Health concerns

A number of young adults were worried about the lack of observance of coronavirus-related precautions by prison staff. One young adult described seeing five or six staff members in an office that only two members should fit in at any time. Another said: *"[it is] very stressful – they don't pay attention to the rules themselves but they expect us to."* One young adult described feeling unsafe, *"I don't feel safe, they don't wear gloves or PPE, they need that, because they are the ones that are going to spread this and they need to clean the facilities like the railings and the showers."* Two young adults reported that they were not allowed to wear masks. A number reported being concerned that they were not being provided with hand sanitiser and that prison staff were not wearing gloves. A number of young adults reported suffering from asthma. Some said they were scared about catching the virus. One said, *"There is no social distancing whatsoever in the jail. Staff are not taking it seriously ... if an outbreak happens a lot of people will die and suffer and I am likely to be one of them."*

Restrictions on contact with the outside world, external scrutiny and difficulties in release planning

The amount of phone credit and time on the phone young adults are getting varies considerably by institution. Some prisons are limiting phone calls to 20 minutes and only allowing a certain number of calls a day. While some prisons are providing extra credit, in others young adults have to pay for it themselves. One young man we spoke to told us that he was very worried about running out of phone credit because his phone was his “lifeline.” Another young adult with autism said he only got £5 phone credit and that it wasn’t enough to call home.

With face-to-face visits currently forbidden, sufficient access to phone time and credit is essential to maintain family links, relieve boredom and help bolster mental health. It is also vital to enable young adults to seek access to external sources of support and plan for release.

One young adult told the Howard League that he wasn’t allowed to send us his legal paperwork as his cellmate might have the virus and officers would not touch the documents to put them in the post.

Resettlement

Young adults in contact with the Howard League have experienced huge problems in sourcing suitable packages of accommodation and support in this period. A recent answer to a parliamentary question showed that around 273 young adults were released to homelessness or to unknown accommodation between 23 March and 30 April 2020.¹² One young adult told the Howard League that his probation officer said she recalled him as she could not find alternative accommodation due to the coronavirus. Another young adult remained in custody even after his approved early release date due to lack of support from probation and social services in finding and approving accommodation until the Howard League threatened legal action.

The severity of restrictions to regimes under Covid-19 is a relevant factor in sentencing and remand decisions

The terrible conditions in prison should be factored in when making decisions about sending young adults to custody. In a judgment dated 30 April 2020, The Lord Chief Justice made it clear that the severity of conditions during the pandemic are a relevant consideration when sentencing adults and children to custody:

“The current conditions in prisons represent a factor which can properly be taken into account in deciding whether to suspend a sentence. In accordance with established principles, any court will take into account the likely impact of a custodial sentence upon an offender and, where appropriate, upon others as well. Judges and magistrates can, therefore, and in our judgment should, keep in mind that the impact of a custodial sentence is likely to be heavier during the current emergency than it would otherwise be. Those in custody are, for example, confined to their cells for much longer periods than would otherwise be the case – currently, 23 hours a day. They are unable to receive visits. Both they and their families are likely to be anxious about the risk of the transmission of Covid-19.”¹³

The guidance applies to all defendants alike. However, the Lord Chief Justice has also acknowledged the need to treat young adults as a distinct group:

*“Reaching the age of 18 has many legal consequences, but it does not present a cliff edge for the purposes of sentencing. So much has long been clear. The discussion in *R v Peters* [2005] EWCA Crim 605, [2005] 2 Cr App R(S) 101 is an example of its application: See paras [10]-[12]. Full maturity and all the attributes of adulthood are not magically conferred on young people on their 18th birthdays. Experience of*

life reflected in scientific research (e.g. *The Age of Adolescence: thelancet.com/child-adolescent*; 17 January 2018) is that young people continue to mature, albeit at different rates, for some time beyond their 18th birthdays. The youth and maturity of an offender will be factors that inform any sentencing decision, even if an offender has passed his or her 18th birthday.”¹⁴

This approach is in line with a growing consensus that this scientific evidence supports the need for a specialist approach to be taken to the treatment of young adults, i.e. people aged 18 – 24 years, in the criminal justice system to take account of their distinct characteristics and needs.¹⁵ The Sentencing Council has similarly recognised that young adults are a distinct group. Its expanded definition (1 October 2019) of what is meant by ‘age and/or lack of maturity’ as a mitigating factor states that “young adults (typically aged 18-25) are still developing neurologically.”¹⁶

Looking ahead

The severity of these new regimes has had an enormous impact on the well-being and mental health of young adults in prison. The situation is becoming untenable. The effect of these restrictions on young adults requires urgent attention and action must be taken quickly in order to protect this vulnerable group from long-term damage to mental health and outcomes. Young adults in prison must have access to a decent regime that meets their needs.

The Howard League has also published a briefing on **Children in prison during the Covid-19 pandemic**, which is available online at www.howardleague.org.

Footnotes

¹ The number is 0808 801 0308. It can be called without the need for prior approval and is open every weekday morning. For more information see <https://howardleague.org/contact-us/> and <https://howardleague.org/legal-work/advice-line/>

² www.nomisweb.co.uk, analysis of estimated population of England and Wales aged 18-24 years in 2018; Ministry of Justice (2020) *Quarterly Prison Population at 31 March 2020* at <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2019>

³ Hughes, N. and Hartman, T. (forthcoming) *Young adults in court: shrinking numbers and increasing disparities*. Sheffield: University of Sheffield

⁴ Ministry of Justice (2019) *Statistics on Race and the Criminal Justice System 2018*, Offender Management Tables, Table 6.01 at <https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-statistics-2018>

⁵ National Audit Office (2015) *Care leaver's transition to adulthood*. London: National Audit Office at <https://www.nao.org.uk/wp-content/uploads/2015/07/Care-leavers-transition-to-adulthood.pdf>

⁶ Ministry of Justice (2019) *Safety in custody: quarterly update to December 2019, Self-harm in prison custody 2004 to 2019*, Table 2.3 at <https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-december-2019>

⁷ Ministry of Justice (2017) *Safety in Custody, Deaths by apparent cause and age band*, Table 1.3 at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/632634/safety-in-custody-deaths-dec-16.xls

⁸ Annual reports are available at <https://www.justiceinspectors.gov.uk/hmiprison/>

⁹ United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, General Assembly Res 70/175, 17 December 2015 at <https://undocs.org/A/RES/70/175>

¹⁰ *R (on the application of Bourghass and another) v Secretary of State for Justice*, [2015] UKSC 54, para. 37 at <https://www.supremecourt.uk/cases/docs/uksc-2013-0230-judgment.pdf>

¹¹ See for example, Letter from Dame Anne Owers, National Chair, Independent Monitoring Boards to Sir Bob Neill, Justice Select Committee, 3 June 2020, <https://committees.parliament.uk/publications/1416/documents/12925/default/>

¹²<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-06-03/54062/>

¹³ *R v Manning* [2020] EWCA Crim 592, para. 41 at <https://www.bailii.org/ew/cases/EWCA/Crim/2020/592.html>

¹⁴ *R v Clarke* [2018] EWCA Crim 185, para. 5 at <https://www.bailii.org/ew/cases/EWCA/Crim/2018/185.html>

¹⁵ Justice Committee (2016) *The treatment of young adults in the criminal justice system: Seventh Report of Session 2016-2017*, 18 October 2016 at <https://publications.parliament.uk/pa/cm201617/cmselect/cmjust/169/169.pdf>

¹⁶ Sentencing Council (2019) *General guideline: overarching principles* at <https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/general-guideline-overarching-principles/>

About the Howard League for Penal Reform

The Howard League is a national charity working for less crime, safer communities and fewer people in prison.

We campaign, research and take legal action on a wide range of issues. We work with parliament, the media, criminal justice professions, stakeholders and members of the public, influencing debate and forcing through meaningful change.

www.howardleague.org



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