

## Howard League for Penal Reform's submission to the Education Committee's Inquiry, Education: Are prisoners being left behind? January 2021

### Summary

1. The Howard League for Penal Reform welcomes this important inquiry on education in prison. This submission focuses on children and young adults.
2. Research on desistance shows that education is vitally important in helping people to turn away from crime towards purposeful lives. Education classes are an opportunity to learn, expand horizons, and to work co-operatively.
3. Yet education in prison is an afterthought, subject to operational requirements.
4. The education system in prison is not fit for purpose for children, young adults or older adults, both in terms of quantity and quality. It is too often repetitive, stultifying and unimaginative.
5. Access to the classroom is a major concern, especially for children, who are required to have at least 15 hours a week. Children with education needs are often provided with less education than those who do not have particular needs.
6. There is no statutory minimum on education for young adults even though in the community it is recognised that continuing education is important for this age group.
7. Access to education for adults is patchy and particularly difficult for people on remand and short sentences to access.
8. The absence of access to the internet or digital resources is archaic and leaves people in prison ill-equipped for the real world.
9. The quality of education available in custody is generally inadequate and lacks creativity. Children do not follow the national curriculum, which means they do not routinely learn about important subjects such as science and sex education. They are rarely provided with the opportunity to complete GCSEs or A-levels. Support for children with education and healthcare plans is inadequate. Children and young adults are transferred from prison to prison with little consideration of their educational needs and progress.
10. Young adults who had education and health care plans as children do not receive them in prison, even though they are entitled to continuing plans in the community.
11. Creative classes, such as music and art classes, are virtually non-existent.
12. The pandemic has highlighted the fragility of educational provision in prison and the low value placed on it.
13. The answer does not lie in turning prisons into educational establishments with security. It is neither feasible nor desirable to punish people with learning. Sentencers should ensure that wherever possible sentences provide no or minimal disruption to education, especially in the case of children and young adults.
14. Where prison is necessary for public protection, education should form a central focus both in terms of access and quality. It must be creative, relevant and fairly administered to ensure that people in prison are equipped to manage a crime-free life in the community.

## 1. About the Howard League for Penal Reform

- 1.1 Founded in 1866, the Howard League is the oldest penal reform charity in the world. The Howard League has some 13,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The Howard League has consultative status with both the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.
- 1.2 The Howard League works for less crime, safer communities and fewer people in prison. We achieve these objectives through conducting and commissioning research and investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. The Howard League's objectives and principles underlie and inform the charity's parliamentary work, research, legal and participation work as well as its projects.
- 1.3 Our legal team works directly with children and young adults in prison. This submission focuses on children and young adults in prison, drawing on our legal, policy and participation work with these age groups.
- 1.4 The Howard League would welcome the opportunity to provide further information about any of the points below.

## 2. Education in prison is not fit for purpose

- 2.1 Research on desistance shows that education is vitally important in helping people to turn away from crime towards purposeful lives.<sup>1</sup> Effective engagement in education and training are key to a desistance focused approach.<sup>2</sup>
- 2.2 Education classes are an opportunity for people in prison to learn, expand horizons, and to work co-operatively.<sup>3</sup> Education also promotes the development of a pro-social identity and provides a pathway to employment on release.<sup>456</sup> Developing employment skills helps to reduce the rate of reoffending.<sup>78</sup>
- 2.3 Yet education in prison is too often an afterthought, subject to operational requirements. As the review by Dame Sally Coates in 2016 found, "recognition of the importance of education in prisons appears to have been lost."<sup>9</sup>

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<sup>1</sup>[https://www.research.ed.ac.uk/portal/files/8195355/Youth\\_crime\\_and\\_justice\\_Key\\_messages\\_from\\_the\\_Edinburch\\_Study\\_of\\_Youth\\_Transitions\\_and\\_Crime\\_Criminology\\_and\\_Criminal\\_Justice.pdf](https://www.research.ed.ac.uk/portal/files/8195355/Youth_crime_and_justice_Key_messages_from_the_Edinburch_Study_of_Youth_Transitions_and_Crime_Criminology_and_Criminal_Justice.pdf)

<sup>2</sup><https://www.justiceinspectorates.gov.uk/hmiprobation/inspections/desistance-and-young-people/>

<sup>3</sup> <https://journals.sagepub.com/doi/pdf/10.1177/1748895806060666>

<sup>4</sup> <https://www.prisonerseducation.org.uk/wp-content/uploads/2019/04/Theory-of-Change-Report.pdf>

<sup>5</sup> <https://prisonerlearningalliance.org.uk/wp-content/uploads/2020/02/PLA-FETL-Leadership-in-Prison-Education-report.pdf> (p14)

<sup>6</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/710406/education-and-employment-strategy-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710406/education-and-employment-strategy-2018.pdf)

<sup>7</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/633198/pnc-ijr.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633198/pnc-ijr.pdf)

<sup>8</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/708156/evaluation-of-prisoner-learning-initial-impacts-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708156/evaluation-of-prisoner-learning-initial-impacts-report.pdf) (p14).

<sup>9</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524013/education-review-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524013/education-review-report.pdf)

- 2.5 Five years on, little has changed. The provision and quality of education is very inconsistent between prisons. Young people have told the Howard League that that courses are often short and of variable quality, and frequent moves to different prisons can result in courses being repeated. There are very limited opportunities to do certified exams, such as GCSEs. The loss of education for people in prison throughout most of the pandemic illustrates that the importance of education largely remains “lost” and is certainly not “at the heart of the prison system”, as the Coates Review recommended. Even in ordinary times, education will often have to defer to operational requirements within the prison.
- 2.6 The education system in prison is not fit for purpose for children, young adults or older adults, both in terms of quantity and quality. It is too often repetitive, stultifying and unimaginative.

### **3. Access to education**

- 3.1 Access to the classroom is a major concern for virtually all people in custody apart from the small number of children detained in local authority secure children’s homes.
- 3.2 The Ministry of Justice has entered into contracts with education providers which included a requirement for them to offer 30 hours of education per learner per week.<sup>10</sup> That is above the statutory minimum required by law for children in prisons and secure training centres, who are only required by law to have at 15 hours a week<sup>11</sup> and 25 hours a week respectively.<sup>12</sup> However, the statutory minimum was often not achieved, even prior to the pandemic.
- 3.3 The importance of access to education, particularly for those with special educational needs, was reaffirmed in *R (AB) v Secretary of State for Justice* 2017 4 WLR 153, a case brought by the Howard League on behalf of a child who had been kept in conditions of solitary confinement for 55 days, without any access to education. In giving judgment, Mr Justice Ouseley said:

“It has not been possible to provide [AB with education] because not enough thought, effort and resources have been put into it. I understand how doing so removes resources from elsewhere for someone who may not be thought deserving of so much attention. But that is not what the Rule permits, and there are obvious reasons why those who are troublesome in the way AB is and for the reasons he is, cannot be left merely to drift in their education, as if they were responsible adults making adult choices. He is in his GCSE year and has special educational needs.” [paragraph 31]

- 3.4 Children with special educational needs or behavioural difficulties are often provided with less education than those who do not have particular needs. This is because such children are often placed on “outreach” schemes where they are taught on a one-to-one basis, or in very small groups, and the time available to each child or group will depend on how many children require it. One young

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<sup>10</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/465531/Protected\\_Education\\_60-40\\_split\\_definition\\_and\\_guidance.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/465531/Protected_Education_60-40_split_definition_and_guidance.PDF)

<sup>11</sup><https://www.legislation.gov.uk/ukxi/2000/3371/article/38/made>

<sup>12</sup><https://www.legislation.gov.uk/ukxi/1998/472/article/28/made>

person with learning difficulties who is currently on such a scheme recently told the Howard League that he was getting 30 minutes of face-to-face education a day. He is unable to study alone as he has difficulty in reading and writing.

- 3.5 There is no statutory minimum on education for young adults aged 18 to 24 in the criminal justice system, even though in the community it is recognised that continuing education is important for this age group. For example, the Children Act 1989 (as amended), places a duty on local authorities to support young people in the care system with their education up to the age of 25.<sup>13</sup> The guidance for young adult care leavers states that they should be supported with to ensure they “succeed in education and make progress towards their preferred career pathway”.<sup>14</sup> Government policy recognises the importance of increasing the number of young people in the community aged 19-24 in education, employment or training, to facilitate the transitions from education to work, improve social inclusion and wellbeing as well as maximise their contribution to the economy and society.<sup>15</sup>
- 3.6 Access to education for adults is patchy and is particularly difficult for people on remand or with short sentences to access. One young person told the Howard League that “education can’t make a difference unless you’re on a long sentence.”<sup>16</sup> This is all the more troubling given the changing demographics of the prison population. The remand population across the whole of the prison estate increased by 24 per cent from 31 December 2019 to 2020.<sup>17</sup> Over a third of children currently in custody are on remand.<sup>18</sup>
- 3.7 As Dame Sally Coates identified, there is a deficit in information about how attainment in education in prisons differs for people from ethnic minorities.<sup>19</sup> However, the Howard League is aware from its legal work that education is routinely disrupted by disciplinary proceedings, episodes of segregation and restraint, all of which were raised in the Lammy review as areas of concern that either affect people from Black and ethnic minorities more than other prisoners or where there was insufficient data to know that.<sup>20</sup> In practice, the Howard League is aware that all these matters tend to disproportionately affect young people from Black and ethnic minorities.
- 3.8 The absence of access to the internet or digital resources is archaic and leaves people in prison ill-equipped for the real world. The Coates Review argued that digital systems are “crucial to enabling the delivery of high quality education to prisoners. If prisoners are, on release, to secure employment, continue to study, or otherwise contribute to society, they must be given the opportunity to use and improve their digital skills in prison”. In the five years since, there has been little

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<sup>13</sup><https://www.legislation.gov.uk/ukpga/1989/41/section/23CA>

<sup>14</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/397649/CA\\_1989\\_Transitions\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/397649/CA_1989_Transitions_guidance.pdf) (paragraph 5.3)

<sup>15</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/70279/bis-13-609-research-into-training-for-young-adults-aged-19-to-24-who-are-not-in-education-employment-or-training-NEET.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/70279/bis-13-609-research-into-training-for-young-adults-aged-19-to-24-who-are-not-in-education-employment-or-training-NEET.pdf)

<sup>16</sup> <https://dora.dmu.ac.uk/bitstream/handle/2086/11312/BJCJ-13-2Little.pdf?sequence=1&isAllowed=y> p33.

<sup>17</sup><https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-july-to-september-2020>

<sup>18</sup><https://www.gov.uk/government/statistics/youth-custody-data>

<sup>19</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524013/education-review-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/524013/education-review-report.pdf) p32

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/643001/lammy-review-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf) Chapter 5

progress made towards effective and flexible digital learning and there is an increasing risk that prisoners will become digitally illiterate, unable to engage in a world where technology now plays a central part in employment, education and daily life.<sup>21</sup>

- 3.9 As a result of the pandemic there has been a huge increase in the use of technology in prisons. Due to the ongoing restrictions of in-person visits, video links are now the primary source of communication between prisoners and families and videoconferencing software is also used for virtual parole and adjudication hearings. Despite this, the use of technology in education provision remains scarce. It is important that improved technology capability should now become embedded in and used to improve and support the provision of education in prisons going forward.

#### **4. Quality of education**

- 4.1 The quality of education available in custody is generally inadequate and lacks creativity. Children do not follow the national curriculum, which means they do not routinely learn about important subjects such as science and sex education. Children routinely tell the Howard League that the main positive of education is getting out of their cells, with education often described as unengaging and focussed on "colouring in".
- 4.2 Children are rarely provided with the opportunity to complete GCSEs or A-levels. One young person described how when they first came into prison they "wanted to do geography, history and German...but they don't do them here."<sup>22</sup> Completing basic GCSEs in English and Maths seems to be a challenge.
- 4.3 The education provided in prisons is often not tailored to the specific educational level and needs of the child. For much of the pandemic, children have been provided with education packs under their doors in lieu of face-to-face lessons. One child described the content as "babyish" and included tasks such as naming car brands. Others said that they could not understand the education packs, as they had difficulty reading without help. The packs were not tailored to the children's age or stage of learning and only one child told the Howard League that their work had been marked.
- 4.4 Support for children with education and healthcare plans (and those who should have such plans) is inadequate. One autistic child in prison who had had a plan in the community was unable to get it update in prison and found that the prison did not appear to take his particular needs into account in education.
- 4.5 Children and young adults are transferred from prison to prison with little consideration of their educational needs and progress. One young person supported by the Howard League was unable to complete his Maths GCSE because he was moved before he was able to sit his final paper. This was despite requests from him and the Howard League to pause a move from a children's prison to a young adult prison to enable him to complete it. Officials at the children's prison stated that the course could be completed at the prison for young

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<sup>21</sup> <https://www.centreforsocialjustice.org.uk/wp-content/uploads/2021/01/CSJJ8671-Digital-In-Prisons-INTS-210114-WEB.pdf>

<sup>22</sup> <https://dora.dmu.ac.uk/bitstream/handle/2086/11312/BJCJ-13-2Little.pdf?sequence=1&isAllowed=y> – p33

adults. However, on arrival, the young adult was moved from the induction unit to the segregation unit for his own safety. He is only allowed out for less than an hour a day and he has been unable to complete the course.

- 4.6 Young adults who had education and health care plans as children are not entitled to have their plans updated in prison, even though they would be entitled to continuing plans in the community. Part 3 of the Children and Families Act 2014, which concerns the provision of education for those assessed as having educational needs – and its accompanying statutory guidance<sup>23</sup> – does not apply to young adults over the age of 18 who are detained in a YOI or in the adult estate. This creates a disparity in the educational chances of young adults with special needs in prison compared to those in the community. There is no rational basis for this. Rather, young adults with special needs in prison are likely to have the same, if not higher, levels of need as their community counterparts.
- 4.7 Creative classes such as music and art classes are virtually non-existent. This is despite the Coates Review calling for “greater provision of high quality creative arts provision”.

## 5. Lessons going forward

- 5.1 The pandemic has highlighted the fragility of educational provision in prison and the low value placed on it. The large majority of prisons are currently operating under Stage 3 of the Government's Covid-19 National Framework, which requires the "reintroduction of classroom based education in YCS, but with restrictions and adaptations."<sup>24</sup> Attempts at reintroduction have been severely hampered by staff shortages and the lockdown of whole wings for significant periods at a time where a positive Covid case is confirmed. As a consequence, access to education continues to be severely restricted, operating at a minimum level of provision in many establishments for children and not at all in most establishments for young adults and adults.
- 5.2 The answer does not lie in turning prisons into educational establishments with security.<sup>25</sup> It is neither feasible nor desirable to punish people with learning. There is a real risk that penal approaches that frame education as punishment can taint the positive benefits of education, which include developing a person's protective factors and life chances, as well as reducing the risk of reoffending.
- 5.3 Wherever possible sentences should provide no or minimal disruption to education. This is especially so in the case of children, as reflected in the Sentencing Council's Overarching Principles for Children and Young people which states: “penal interventions may interfere with a child or young person's education and this should be considered by a court at sentencing”.<sup>26</sup>

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<sup>23</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/SE\\_ND\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SE_ND_Code_of_Practice_January_2015.pdf)

<sup>24</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/889689/prisons-national-framework.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889689/prisons-national-framework.pdf)

<sup>25</sup><https://howardleague.org/wpcontent/uploads/2018/07/Howard-League-secure-schools-response-30-July-2018.pdf>

<sup>26</sup><https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/sentencing-children-and-young-people/> paragraph 1.8

- 5.4 Where prison is necessary for public protection, education should form a central focus both in terms of access and quality. It must be creative and relevant to ensure that people in prison are equipped to manage a crime-free life in the community. Operational decision making in prison should consider the need to support progress in education. Care and attention are required to ensure that people from minority communities and people with particular educational needs are not disadvantaged in prison.

The Howard League for Penal Reform  
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