Ref	YPAVA011
Title	**CHILD RIGHTS IMPACT ASSESSMENT OF PAVA IN THE YOI ESTATE**
Date	13 February 2025
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Descriptor	A child rights assessment of the impact of the policy change to introduce PAVA into the YOI estate.

Ministry of Justice

CHILD RIGHTS IMPACT ASSESSMENT (CRIA)
PAVA In the YOI Estate

Stage 1 - Screening

1. What is the policy/legislation?

This is an amendment to an existing policy – Use of force, restraint and restrictive practices in the children and young people secure estate- specifically for the Young Offender Institutions (YOI).

This amendment to the existing policy is the introduction of the partial deployment of Pelargonic Acid Vanillyamide (PAVA) in the three public sector YOIs in the Children and Young People's Secure Estate (CYPSE) for use in very limited and controlled circumstances, specifically where there is a risk of significant harm to another child or member of staff. These are HMYOI Feltham A, HMYOI Werrington and HMYOI Wetherby.

The impact of the reduction in the number of children in custody over the last decade is that today these are predominantly older teenage boys aged 16 to 18 remanded or sentenced to custody for more serious, and often violent, offences. Two-thirds of children in YOIs have committed offences of violence against the person far higher than those in the adult estate.

We are regularly seeing incidents which involve a large group of children assaulting a single child. These group assaults often result in significant injuries being sustained by the victim of the assault and staff members who put themselves in harm's way to protect the child victim.

These incidents cause harm to children and have wider implications such as serious physical and emotional harm and overall well-being. There is a risk to life for the children involved. The assault and injury of staff similarly creates absences from the workplace which leads to restrictions in the time out of room and access to activities and education for children.

PAVA has been rolled out in the adult male prison estate to all prison officers and as part of their individual Personal Protective Equipment (PPE). It can only currently be deployed in the children and young people's secure estate by national staff deployed to respond to serious incidents under the authority of Gold Command.

The policy

The YCS will undertake a partial deployment of PAVA to those three public sector Young Offender's Institutions in England (HMYOI Feltham A, HMYOI Werrington and HMYOI Wetherby), which have the highest levels of violence.

A partial deployment of PAVA will ensure that only a limited number of trained and qualified individuals will be approved and issued with PAVA. There will be a higher level of governance and oversight to ensure these are used in exceptional circumstances to prevent the risk of serious injury or harm. This is distinctly different to PAVA use in the adult estate and will move the current national use to a local level with the aim that this will increase the speed of intervention which will reduce the harms that can arise from serious acts of violence in custody.

PAVA is a pain-inducing technique and, as such in line with the current use of force and restraint policy, it must only ever be used as a last resort in an emergency where it is appropriate, proportionate and necessary to protect an individual or third party from an immediate risk of serious physical harm.

As set out in further detail below, the use of PAVA will be closely monitored:

- at local operational level, including the relevant local authority designated officer being informed, Governor or Deputy Governor and Head of Safeguarding
- at national operational level by; Deputy Director of Operations, Head of Safeguarding and Head of Use of Force.
- through independent national scrutiny, all incidences of PAVA will be reviewed by the Independent Restraint Review Panel; and
- at ministerial level through weekly incident reports and monthly detailed reports.

In terms of evaluation and monitoring of the use of PAVA the YCS please see attached proposal.

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2. **Will aspects of the policy/legislation affect children up to the age of 18 either directly or indirectly? (Yes/No)**

Yes.

3. **Are there particular groups of children and young people who are more likely to be affected than others? (Yes/No)**

Yes.

If you have answered yes to question 2 or 3 you need to complete Stage 2 and 3 of the CRIA. If you have answered no, then you do not need to complete the CRIA

Stage 2 – Assessing impact

4. **Set out briefly below how your policy/legislation might impact on children and young people.**

Children who it may be used against

PAVA can help staff manage incidents of serious violence and reduce risk of serious harm to staff and young people. It has been shown to be an effective tool and studies on adults show it carries no long-term medical risks. PAVA is a chemical irritant and, when effective, can reduce the ability of a perpetrator to deliver serious harm and give staff time to manage a situation quickly and safely.

Direct exposure to PAVA may have the following effects:

- Eyes – A burning sensation, severe twitching, spasmodic contraction and an involuntary closing of the eyes
- Respiratory system – Respiratory inflammation, excessive mucus and uncontrollable coughing
- Skin – Lips and eyelids may become swollen; skin may be discoloured or feel hot.
- Other physiological effects – legs become weak, leg tremors, impaired hearing, impaired thinking and muscle tension

The purpose of the introduction of the use of PAVA is to rapidly contain and/or defuse situations to prevent further harm being caused to children during incidents as this presents the only safe way to safely intervene in a timely fashion. This is expected to reduce the severity of assault and injury that could be received by a child (and

staff member).

Annex C (ii) - Dr Maconachie Report.

Children for secondary exposure

Other children in the immediate area may be unintentionally exposed to PAVA and suffer symptoms. Anyone experiencing ongoing primary symptoms must be seen by a healthcare professional.

Keeping Children safe

The purpose of the introduction of PAVA in the public sector YOIs is primarily to prevent the significant risk of injury during incidents and supports our duty to keep children safe who are themselves victim of assault from another child. The use of any type of force within the CYPSE is only justified, and therefore lawful, only if:

- It is reasonable in the circumstances.
- It is necessary; and
- It is proportionate to the seriousness of the circumstances

PAVA as a pain inducing technique (PIT) can only be justified in an emergency to directly prevent a significant risk to safety of children, staff or others. Operational guidance will closely define the appropriate use of PAVA eg. when a weapon is being used or where multi-assailants are undertaking violence which is assessed to pose a high risk of harm to the victims. PAVA will only be used as a last resort as part of a dynamic risk assessment

All members of staff have a duty of care towards any children exposed to PAVA. There are clear aftercare procedures led by NHSE commissioned health professionals employed in the YOIs that must be followed as defined in the operating procedures/policy.

Emotional Impact

The YCS are aware that evidence shows that the majority of children in our care have experienced significant adverse childhood experiences. Therefore, the policy is mindful that YCS must take steps to avoid any further trauma through use of force. The framework of integrated care (SECURE STAIRS) is well established within YCS and will be fully utilised to minimise the impact. Individualised support is critical to understanding the needs of each child. There will be a dedicated debrief for any child impacted by the use of PAVA.

5. **Which UNCRC Articles are relevant to your policy/legislation? For each relevant article, briefly summarise what impact your policy will have on implementing each relevant article and evidence whether your policy will have a positive, negative or neutral impact on implementing each article. Please provide any supporting evidence.**

Article 2 - non discrimination

Negative – the findings of the equality impact assessment demonstrate negative outcomes for several protected characteristics. See section 7 of this assessment.

Article 3 - best interest of the child

Negative – it is accepted it is not in the best interest of the individual child subject to any use of force and pain-inducting techniques such as PAVA, however given the increasing levels of violence and group assaults in public sector YOIs this is an exceptional measure which is necessary in order to prevent serious harm to other children.

Article 4 - implementation of the convention

Negative – it is accepted that the partial deployment of PAVA does not promote and protect a child's individual rights if subject to PAVA however the key aim of the implementation is to prevent serious harm from being caused to other children which the convention produces a duty to support (as well as the rights of others in the setting).

Article 6 - life, survival and development

Positive - The intention behind the policy is to safeguard the lives of other children who may be subject to serious risk of harm and the risk to life or serious life changing injury may arise from an act of violence. The speed and ability to intervene, especially when weapons are involved, will directly support a reduction in the risk to a child losing their life.

Please see attached annexed NSHE paper for further detail regarding how it may impact children with specific additional needs.

Annex C (i)- NHSEI PAVA Submission.pc

Article 12 - respects for the views of the child

Negative - Due to the highly sensitive nature of this policy, children have not been asked for their views on the implementation of PAVA in the 3 YOIs. It would cause instability in an operational live environment to engage at this stage. Therefore, YCS have committed to ensuring their voices are heard during the evaluation period by

the external researcher and this will contribute to a 12-month review by Ministers of the policy change. However, a level of research into the experiences of children in custody has been considered which heard the voice of 5 children in one YOI who had experienced PAVA (4 via police and 1 self-administered).

Although the YCS have not specifically sought the views of children in relation to this, organisations such as The Office for the Children's Commissioner, who represent the views of children, have been consulted on this matter and have responded accordingly.

Article 19 - protection from violence, abuse and neglect

Positive and Negative – this policy allows for the extended, but controlled, use of a pain-inducing technique (PIT) which would be applied to children to prevent serious harm being caused. The use of PIT will create a negative impact on a child but will create a positive impact on the victim of violence who is stopped or protected from further violence by PAVA incapacitating them.

Article 28 - right to education

Neutral – Due to current levels of violence and the management of conflict children are not receiving their entitled hours of education. Resolving serious incidents swiftly will allow staff more time to ensure education is delivered appropriately.

Article 37 - inhumane treatment and detention

Negative – Custody is used as a last resort and YCS strive to effectively meet the needs of these children in line with integrated care framework.

Whilst the YCS acknowledge the detrimental impact of the use of PAVA on children, the justification for it use will be that it is prevention a greater harm occurring.

Article 39 - recovery from trauma and re-integration

Neutral- within YCS there are existing processes and frameworks in place to care for children in custody. These include Advocacy services, Constructive Resettlement, SECURE STAIRS, Building Bridges, behaviour management support, and there are extensive health services to manage the needs of children. All the above frameworks and services work collectively to improve the outcomes for children by meeting their individual needs.

Currently the YCS do not have any evidence either way to identify if the use of PAVA will be detrimental to children’s recovery from trauma, however it will be included as part of our evaluation.

Please see attached annexed report form YCS Psychology Team

6. What is the impact of the policy/legislation on the four general UNCRC principles? All UNCRC rights are underpinned by the four general principles:

Non-discrimination (article 2)

HM Prison and Probation Service (HMPPS) uses the Equality Assessment (EA) framework which sets out the legal duty of HMPPS to comply with the Public Sector Equality Duty, and how the EA is a tool which enables to demonstrate compliance.

The framework states that an EA should be completed by anyone who is developing and/or implementing a new or revised strategy/policy.

An EA has been completed (see section 7).

Key areas of note from the EA include the potential for black boys to be disproportionately impacted by the introduction of PAVA . Where these potential inequalities have been highlighted, additional training will be provided to those who are trained to carry PAVA, to ensure a full awareness of any potential discrimination.

The best interests of the child (article 3) & the right to life, survival and development (article 6)

As stated in section 5 above the introduction is not in the best interest of children in our care, however in contrast it is in the best interest to prevent serious harm to children who are victims of violence.

There have been several notable incidents where serious injury has occurred, or staff have had to place themselves at risk to prevent serious injury. Serious injuries have included organ damage, fractures and wounding. Were PAVA to be available to local staff to enable a safe intervention sooner, injuries sustained may have been avoided or considerably lessened.

The right of children to express their views and have them be given due weight in decisions that affect them (article 12)

Due to the highly sensitive nature of this policy, children have not been asked for their views on the implementation of PAVA in the 3 YOIs. YCS believe it would cause instability in an operational live environment. Therefore, the YCS have committed to ensuring their voices are heard during the evaluation period by the external researcher.

For each principle, briefly summarise what impact your policy will have on implementing the principle and whether your policy will have a positive, negative or neutral impact on implementing the principle? Provide any supporting evidence.

7. **Referring back to Question 3, are specific groups of children and young people more likely to be affected? If so, are there different impacts for the different groups of children and young people? Please provide supporting evidence highlighting the impacts this will have on the children and young people.**

Age assessment

Impact expected (select one):

- **negative**
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- ~~neither or limited~~

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

PAVA in the YOIs applies to all CYP and young people irrespective of their age. The YOIs hold predominantly 17-year-olds, but also has those who remain at the YOI beyond their 18th birthday. Those 18-year-olds who are held in adult sites (eg. Feltham B) are subject to the adult policy for the use of PAVA as opposed to those in the youth estate (eg Feltham A). The decision about whether to draw and or deploy PAVA in the youth estate is determined by consideration of the risk to serious harm to the CYP or staff.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

Detailed data is already collected and published around the use of restraint or physical intervention in YOIs. This data is regularly reviewed by local settings, as well as at a national level, a further requirement is that this data should be used to determine trends in usage, monitor the effectiveness of the local use of force arrangement and to identify and take action where any disproportionate use is found.

Data from the adult male prison estate shows that the majority of PAVA usage is against males in the age range 18-20 (51%), and as such scrutiny and evaluation of all PAVA incidents in the YOIs will be undertaken. As PAVA use in the youth estate will differ from the adult estate then the expectation is that it is used in direct

response to violent actions that are underway. The children who are victims of violence that PAVA intends to protect against are of the same ages.

The population of children and young people (CYP) within the YOIs means that they are still growing and developing. As highlighted by NHSE colleagues, PAVA could impact neurologically and due to the age range within the sector PAVA has a greater likelihood of causing trauma that will impact the child. It is recognised that maturation and neurological development can occur up to age 24 and therefore the same factors should be considered in the adult estate however this assessment is focused on those under 18 years.

Disability assessment

Impact expected (select one):

- **negative**
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- ~~neither or limited~~

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

NHS England have considered the impact of PAVA roll out on CYP and state, *"From the limited evidence available on the use of PAVA spray in neurodiverse populations it is reasonable to conclude that autistic individuals may be differently affected by the effects of PAVA and may be slower to recover. This may also be true of other neurodiverse individuals. It is an area where more research should be done".* NHSE have highlighted that CYPSE has a disproportionately high neurodiverse population of CYP.

When PAVA is used, people often feel severe pain in their eyes, they cough a lot, find it hard to think straight and might feel a burning sensation on their skin. These are normal reactions, and the effects usually go away after about 20-40 minutes. Most people feel better within 40 minutes. Dr Ian Maconochie (Consultant in Paediatric emergency medicine at Imperial College Healthcare NHS Trust and HMPPS medical advisor) acknowledges that there is no specific literature on the use or medical effects of PAVA on CYP and supports the need for further research.

CYP in our care often have histories of abuse and exploitation and most have experienced significant trauma and adverse childhood experiences. If rolled out, the likelihood is that PAVA would be used on individuals with a significantly higher than average likelihood or trauma or mental health issues. To mitigate this the partial roll out will provide a very high threshold for use, with high level and robust assurance and governance arrangements including the debriefing of both CYP and staff. The CYP in Custody 2021-22 (published in January 2023) shows that 42% reported

having health problems and 27% said they had a disability. The retraumatising impact of using PAVA (as it induces pain) must be considered. There is limited research into the impacts of PAVA on CYP, other than the physical effects on eyes, mouth & nose, respiratory tract and skin.

The children who are victims of violence and prone to serious injury may well similarly have experienced previous trauma and have other serious health concerns. PAVA would reduce the level of violence and thus level of trauma experienced by these children as it will speed intervention and allow weapon related incidents to have a means of intervention.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

As further control measures and research is required, additional oversight and governance for this use of force will be implemented, where those affected will be assessed from both a physical and mental health impact with findings fed into live evaluation by the external researcher.

Summary of actions following all drawing and/or deployment of PAVA:

- PAVA drawing and/or usage reported within HMPPS to the National Incident Management Unit (NIMU) under national incident reporting guidance.
- Immediate aftercare will be provided by NHSE commissioned employed health providers.
- Medical impact will be assessed, from both a physical and mental health perspective and recorded.
- Staff and CYP will be subject to a debrief.
- Instances of use of force are reviewed by establishment Governors and/or Deputy Governors, alongside health, equalities and safeguarding establishment leads.
- Local Authority Designated Officers (LADO) will be notified of any use of PAVA.
- Data collected and scrutinised collectively by UoF and Equalities lead, and Governor briefed.
- Individual reports will be produced on CYP where PAVA is drawn and/or deployed, to review the usage and consider the impacts on the child against the protected characteristics. These will be shared with the EBPT for an ongoing live evaluation.
- Review by the Independent Restraint Review Panel (IRRP).

- Children with additional needs will have restraint minimisation plans that will be considered when using PAVA.
- Advocacy service will routinely meet with children to gather their views of use of PAVA and their experience which will be shared with YCS and the external researcher.
- Children can access and complete discrimination incident reporting forms in each site and these will be monitored for disproportionately.
- There will be monthly Ministerial scrutiny of any PAVA drawing or deployment and full monitoring of all characteristics of these uses of force.

Gender Reassignment assessment

Impact expected (select one):

- ~~negative~~
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- **neither or limited**

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

The YCS do not consider that this would be affected by this change.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

A live evaluation (aligned to the rollout planning and implementation) by the external researcher, will gather and consider the impact on PAVA and have regard to all the protected characteristics.

Marriage and Civil Partnership assessment

Impact expected (select one):

- ~~negative~~
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- **neither or limited**

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

The YCS do not consider that the rights of a child or young person aged 16 or over in the CYPSE who is legally married or in a civil partnership would be affected by this change.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

A live evaluation (aligned to the rollout planning and implementation) by the Evidence Based Practice Team (EBPT), will gather and consider the impact on PAVA and have regard to all the protected characteristics.

Maternity and Pregnancy assessment

Impact expected (select one):

- ~~negative~~
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- **neither or limited**

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

Not applicable – this policy does not apply to girls.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

- This policy does not apply to girls.

As further control measures and research is required, additional oversight and governance for this use of force will be implemented, where those affected will be assessed from both a physical and mental health impact with findings fed into live evaluation by the external researcher.

Race assessment

Impact expected (select one):

- **negative**
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- ~~neither or limited~~

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people,

The cohort of CYP in the YOIs is significantly more racially disproportionate compared to the population of England and Wales.

The existing governance of use of force works to prevent disproportionate use based on race or any other protected characteristic and the YCS continue to gather accurate data on this and provide bespoke training for staff on this through Equalities Action groups.

Research on disproportionally shows:

- Ethnic minority young men face disproportional outcomes at court in comparison to Ethnic minority young females and adults. *e.g. MOJ Exploratory analysis of 10–17-year-olds in the youth secure estate by black and other minority ethnic groups.*
- Ethnic minority young people are disproportionally represented within the CYP and young people's secure estate. *e.g. Lammy, D. 2017. The Lammy Review An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System.*
- Whilst the overall population of the youth estate has been decreasing, the decrease within the Ethnic minority young people is reducing at a slower rate. *e.g. MOJ Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales.*

The evaluation into the roll out of PAVA in the male adult estate shows that 'Mixed' and 'Black/Black British' ethnicity individuals continue to experience PAVA more than others (11% and 40% of individuals impacted by PAVA incidents respectively when representing 4.91% and 12.86% of the prison population, and 5.90% and 14.00% of the incident sites' population). Individuals in the 'other ethnic group' category may also now be experiencing disproportionality.

With the requirement to collect and analyse data on the characteristics of CYP involved in instances where restraint or physical intervention is used which will provide Governors with greater insight to inform strategies to address disproportionality, with the expectation being that where disproportionality is identified immediate action is taken to address it.

The use of PAVA will further be scrutinised by Senior Leaders in the YCS to further consider the impact. This will include health professionals.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

With the requirement to collect and analyse data on the characteristics of CYP involved in instances where restraint or physical intervention is used which will provide Governors with greater insight to inform strategies to address disproportionality, with the expectation being that where disproportionality is identified immediate action is taken to address it.

- Central equalities manager will form the national panel for each use of PAVA. The Equalities manager will routinely share data and impact with staff and hold workshops to raise awareness of disproportionately in the CJS as a whole.
- Children can access and complete discrimination incident reporting forms in each site and these will be monitored for disproportionately.

Religion and Belief assessment

Impact expected (select one):

- **negative**
- ~~positive (advancing equality of opportunity/fostering good relations)~~
- ~~**neither or limited**~~

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

Data shows that children from the Islamic faith are disproportionately restrained.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

The cohort of CYP in the YOIs is significantly more racially and religiously disproportionate compared to the population of England and Wales.

Existing governance of use of force works to prevent disproportionate and the YCS continue to gather accurate data on this and provide bespoke training for staff on this through Equalities Action groups.

There is limited evidence about the impact of religion on the use of restraint or physical intervention, but the requirement to collect and analyse data on the characteristics of children involved in instances where restraint or physical intervention is used will provide Governors with greater insight to inform strategies to address all aspects of disproportionality including where this may be related to the religion or belief of children, with the expectation being that where disproportionality is identified immediate action is taken to address it.

Sexual Orientation assessment

Impact expected (select one):

- ~~negative~~

- ~~positive (advancing equality of opportunity/fostering good relations)~~
- **neither or limited**

Impact description: from your evidence gathering and consultation, what negative and/or positive impacts would there be and how widespread (that is: likely to affect one or two people, or a larger group).

It is assessed that this change does not affect children in relation to their sexual orientation.

Actions: are there any potential actions you may take to mitigate against any negative impact as far as reasonably possible? If not, why not?

There is an expectation on establishments to review data on the use of restraint or physical intervention and to take appropriate action where disproportionality exists. This includes data on Sexual Orientation.

Welsh language assessment

How have you taken into consideration the legal duties and corporate commitments set out in the HMPPS Welsh Language Scheme when considering Welsh language speakers? Are there any further opportunities to promote the Welsh language?

All current local processes to support those who use Welsh as their first language will remain in place for all within the CYPSE. Information for children will also be provided in the Welsh language.

8. What other evidence is there to support your assessment of the impact on children's rights?

Article 6 of the UNCRC recognises that **all children and young people have the right to survive** and the right to develop – and this applies to children and young people in custody. Currently, inspectorates have been critical of the levels of high violence and poor safety levels within the Children and Young People's Secure Estate for some time. Indeed, levels of violence in the youth estate are higher than the adult estate. There is notable and escalating risk which necessitates action to protect children (and staff) who are victims of violence.

The number of children and young people in custody (including 18-year-olds) have fallen by nearly 52% in the last decade from 1,146 in August 2014 to 555 in August 2024. This has resulted in a more complex cohort. 68% of the total population within

the youth estate, detained for violence offences. Latest published data shows the rate of overall violence levels have increased in the youth estate. From January to March 2024, compared to the same period 12 months before, the rate of overall assault incidents is up by 10%, including the rate of assaults on staff is up by 6% and the rate of self-harm incidents is up by 119%. Serious assault rates and the presence of weapons during assault incidents, rates of multi-perpetrators (5 or more assailants/fighters) and staff assaults have all increased in 2024. In addition, the YCS have seen large increases in seriousness and the presence of weapons.

It is hard to fully judge but in the view of the YCS there are examples of incidents where, if PAVA was available, serious injuries would have been prevented or the incident would not have escalated. The access to PAVA by staff directly involved in an incident in a short timescale are key factors to be considered when responding to violence.

Therefore, PAVA would help to support the right to life for both children and staff within the CYPSE.

The drawing and/or deployment of PAVA in the YOIs will be subject to existing use of force governance arrangements.

Every usage of PAVA will be reviewed by establishment Governors and/or Deputy Governors, alongside health, equalities and safeguarding establishment leads, with data collected and scrutinised collectively by Use of Force and Equalities lead. Furthermore, the external researcher will align a live evaluation to rollout plans.

Use of force in the YOIs is subject to robust scrutiny to ensure appropriate and proportionate use. This includes:

- Instances of use of force are reviewed,
- Strict governance procedures ensure adequate risk assessments and criteria met, and
- Action for staff if found to have been used inappropriately.

PAVA drawing and/or usage is reported within HMPPS to the National Incident Management Unit (NIMU) under national incident reporting guidance. Incidents of PAVA usage is reviewed and scrutinised. PAVA use in the YOIs would encompass this approach and form part of the review by the Independent Review of Restraints Panel (IRRP).

Collecting, reviewing and monitoring data about instances where PAVA is drawn and/or deployed, with debriefs of staff and CYP will inform of any changes to address any disproportionate outcomes.

Via such de-briefing processes and rigorous scrutiny, children and young people will be able to put their views forward.

Recently, HM Inspectorate of Prisons published a Thematic Review of Quality of Education in YOIs on 2 October 2024, this was highly critical of the education delivery in the YOI's (England) within the Children's and Young People's Secure Estate, describing it as a decade in decline. Reduced access to education can be one of the consequences of high levels of violence. Access to education and skills training is essential for employability and rehabilitation.

The population in YOI's, in addition to the proportion in custody for violence, have also approximately 40% who are on remand creating further churn and instability. YOIs cannot refuse placements in the way that other sectors within the CYPSE can, a policy that further contributes to the number of complex children at the sites.

9. Have you made any modifications to the policy/legislation to address any negative impacts (whether on children generally or on specific groups of children)? If no modifications have been made, what barriers exist to doing so?

Use of PAVA must be reserved for exceptional emergency circumstances, and only ever as the last resort. The use of PAVA is governed by the same rules and law relating to the use of force and specifically pain inducing techniques (PIT). Staff considering use of PAVA must consider the four principles and make a dynamic risk assessment of the circumstances to ensure the drawing and/or use of PAVA is necessary, reasonable, and proportionate.

The use of force will be justified, and therefore lawful, only:

- If it is reasonable in the circumstances;
- If it is necessary; and
- If it is proportionate to the seriousness of the circumstances.

In addition to satisfying these principles, HMPPS policy is that PAVA will only be used when exceptional circumstances apply and in accordance with training. The YCS will implement a partial deployment, which is distinctly different from the adult custody estate, balancing the need to protect children (and staff) and children's rights when exposed to serious violence.

The legitimate use of PAVA will only be considered reasonable as a means of defence when:

i. It is necessary for an officer to defend themselves or a third party from an attack, or an impending attack, where they perceive a threat of immediate serious harm; and

ii. There is no other reasonable option open to the member of staff to protect themselves or another person and reduce the risk of immediate serious harm but to employ this defensive technique.

PAVA can only be used as a last resort in an emergency and will be carefully monitored. It is not a replacement for programmes leading on effective behaviour management or relationship building, which the YCS are focused on embedding as a priority. Violence prevention rather than violence response remains the priority however mitigating the impact on victims of violence through a safe and effective means of prompt intervention is crucial and PAVA is the only current means available to provide this.

The YCS are working to address the needs and risks of children and young people in custody through our framework of integrated care co-developed with the NHS, through SECURE STAIRS, which focuses on young people as individuals. This is still the foundation of our behaviour management framework and is key to ensuring that children and young people maintain trustworthy relationships with staff. In partnership with NHS England, the YCS are taking a trauma-informed approach, focussing on conflict resolution and specialist psychological interventions.

10. Are there any alternative options to the proposal being considered? What would their projected impacts on children's rights be? Please identify any associated resource implications.

1) Evidence suggests that smaller units with higher ratio of staff to children meets the needs of this cohort better. The YCS want to invest in non YOI accommodation, this is why capital investment in places like Vinney Green and other SCH's, as Department of Education have historically done, to keep places viable is critical and our focus on re-procurement these beds. In the longer term, the YCS aims to transition towards an estate which is comprised of smaller units, which are more geographically dispersed, and which are closer to the evidence base in terms of ensuring we are better able to meet children's needs. As these smaller units would have higher staff: child ratios which we know improves the ability of staff to develop positive relationships, in turn increasing the likelihood of supporting children to develop pro-social behaviours and reduce likelihood of violence. Smaller accommodation units would also mean that the numbers of children would not be able to reach the volume level that some of the 'multiple perpetrator' incidents which have prompted this decision. It should be noted that this longer-term ambition is dependent on the provision of funding through departmental allocations, and subsequently the building of these sites.
2) The YCS have already opened the first secure school and are now exploring developing another secure school. This is following evidence of smaller units

meeting the needs of children. As above the wider work on the future estate strategy for children in well underway but it will take time to secure investment and to construct new environments.

3) Those remanded or sentenced by the courts must be held safely and securely in custody with consideration of victims and public protection. The number of children in custody has reduced and this supports increased ratios of staff to children (however the reduction has largely seen site closures rather than directly impact existing sites). Nevertheless, the recent Government decision to overturn an interim policy to transition 18-year-olds more quickly to the adult estate will support this further reduction. Future work, subject to investment, is focused on reducing the remanded population of children and creating suitable alternative accommodation. This will again have a positive benefit but again is not immediate. The ratio of staffing in YOI's is 1:12 in comparison to 1:3 in SCH's. However, there is limitations in the physical layout of YOI's which make it difficult to have smaller number of children in activities, provide individual care and interventions. An environment that is fit to meet the needs of complex children is required, as this is difficult to achieve within the existing estate.
4) Within the current YOI estate the YCS would need to restrict regime activity to keep children and staff safe if it cannot intervene safely with larger numbers of children. Higher number of children in activities coming together is where risk is being seen, causing the increase in serious violence when multiple groups come into contact or attack a single victim. It is this scenario that has informed the necessity to respond in a YOI as opposed to other settings. Restriction of the regime, or separation of children has been criticised by regulators (HMIP and Ofsted) and is known to have an impact on children, their development and their rights. Therefore, this is not a suitable means to respond to the identified risk and need. Similarly, weapons used vary and can be fashioned from any basic items (pens, toothbrushes, weighty items in socks etc). Whilst a focus on searching and reduction of weapons is appropriate action it would not be possible nor desirable to remove all items that could be weaponised.

Our current initiatives include:

Safety Strategies:
All Young Offenders Institutions have a safety strategy that reflects the local drivers of violence. Advice and support are also being offered around debt and the illicit economy as there is increasing intelligence to suggest that these are increasing contributors to some violence. Each site also has a weapons strategy connected to this to minimise children making weapons to use in assaults with appropriate searching to detect such weapons. These strategies are informed by Safety Summits where the voice of the child, as well as stakeholders and staff are considered.

Security intelligence and information relating to conflict between known individuals is collected and responded to in order to prevent violence (though it is noted that regulators have expressed concerns with the level of “keep aparts” that have been identified in the YOIs).

Conflict Resolution:
Conflict resolution practitioners are employed in each YOI and work to repair harm caused by conflict between individuals/groups aiming to reduce violence.

Revised Minimising and Managing Physical Restraint” (MMPR) syllabus:
The Ministry of Justice understands that the physical restraint of children and young people must only be utilised to ensure the safety of them or staff. An MMPR syllabus has been introduced which requires the use of diversion and de-escalation techniques to avoid the use of physical restraint where possible.

We plan to move forward with the revisions to the MMPR syllabus, which is the new behaviour management and restraint system. It will provide staff with the ability to recognise young people’s behaviour and use de-escalation and diversion strategies to minimise the use of restraint through the application of behaviour management techniques.

The new syllabus introduces softer wrist restraints, but also maintains 'ratchet' handcuffs and the 'inverted wrist hold' on an exceptional basis as these are 'pain-inducing techniques' (PIT). This has already been rolled out to HMYOI Parc and HMYOI Wetherby. The MMPR syllabus is being rolled out to the remaining two sites, as it can only be achieved one site at a time. At this stage there is no discernible impact on the levels of violence and would not offer the safe method of speedy intervention to prevent a multi perpetrator attack or the use of a weapon.

The **Framework for Integrated Care (SECURE STAIRS)** has been rolled out across the CYP and young people secure estate (CYPSE) in under-18 young offender institutions. Its purpose is to improve the quality of care and outcomes for CYP and young people in the CYPSE. The Framework for Integrated Care (SECURE STAIRS) provides a framework in the CYPSE that involves training staff to provide more developmentally attuned, psychologically informed care, which is centred around comprehensive, co-produced assessments of young people’s needs to ensure that all needs are identified.

The **Building Bridges Framework** requires secure settings to tackle discrimination and support the child. Staff are required to model positive respectful relationships and work in ways to avoid labelling CYP. All staff should take responsibility for developing and modelling positive and respectful relationships with CYP and young people, in which they:

- promote relationships that are based on fairness, honesty, respect, objectivity and trustworthy interactions.
- work in a way that avoids labelling young people and demonstrates a belief in their ability to change.
- understand the child or young person's context, 'story' and needs and not just their criminogenic factors/ offence history.
- work in a collaborative way, involving and engaging CYP and young people in matters that impact on them.
- work positively with challenging and potentially violent behaviour.
- The **Custody and Support Plan (CuSP)** model is being implemented across the estate, with Youth Justice Workers engaging and supporting CYP to make progress away from violence and offending.

11. Does your policy/legislation address any of the recommendations put forward by the UN Committee on the Rights of the Child in its Concluding Observations on the UK? The latest Concluding Observations can be found here. Be specific about the recommendations it addresses or fails to address.

Non-discrimination para's 19-20 – The YCS acknowledge the wider discrimination that is faced by children from certain backgrounds within the criminal justice system . Within the introduction of this policy, the YCS will strive to ensure that we actively seek to avoid any further inequality through the use of PAVA within Public Sector YOIs.

Abuse, neglect and sexual exploitation para 32-33- With reference to the Independent Inquiry in Child Sexual Abuse recommendation 5 - That the UK Government prohibits and withdraws the use of pain compliance techniques (known as Pain Inducing Techniques- PITs) in custodial institutions where children are detained. The use of PAVA fails to meet this recommendation and is consistent with PIT that remain approved within the children and young people secure Estate.

Children deprived of a family environment para 37-38 – this is not applicable for the policy on PAVA.

Mental health para 42-43- YCS addresses the mental health needs of children with extensive support in place through NHSE commissioned services. Please see annexed reports attached.

Asylum-seeking, refugee and migrant children para 49 -50- The YCS acknowledge that children who are from the above groups are more likely to be highly traumatised, and this is always considered whilst they are in our care.
Children in the criminal justice system para 53-54- The YCS are fully committed to supporting early intervention in the UK's youth justice system and support custody should only be used as a last resort. The YCS work with Youth Justice Partners to ensure collaboration in this recommendation. In relation to the introduction of PAVA

in the Public YOIs, the YCS acknowledge that this is a cause of concern and have consulted with both our statutory partners, and also our wider stakeholders in the youth justice system. The YCS aim to ensure that we will continue to work closely with our partners in order to ensure clear and transparent communication regarding the introduction and use of PAVA, and also further the overall aim of prevention children from entering the criminal justice system.

Violence against children para 30-35- Whilst not specific to children within custodial settings, the YCS acknowledges that PAVA is likely to fall into the categories listed and is also recognised as a pain inducing technique. Any deployment of PAVA within the three public sector YOI's would be supported by appropriate operational guidance, governance and scrutiny from the Independent Restraint Review Panel. Policy guidance on restraint and the use of physical pain induing techniques is already published.

12. Has there been any public or stakeholder consultation on the policy/legislation? If yes, how have the public/stakeholders responded.? Please provide evidence. Stakeholders include children, parents/carers, children's workforce, representative bodies, NGOs.

Extent of consultation

The YCS have not undertaken a formal public consultation. However, it has been widely known and reported that the government has been considering the roll out of PAVA in YOIs and the YCS have had official-level conversations with the groups in the table below.

On 11 January 2024, then Minister Argar undertook a stakeholder roundtable with representatives from the Alliance for Youth Justice, Association of YOT Managers, Howard League and Prison Reform Trust. Other Ministers and senior officials have engaged with stakeholders who have expressed their views on PAVA use and any policy change.

Ministers received written correspondence from:

Prison Officers Association
Alliance for Youth Justice
Association of Directors of Children's Services
Youth Justice Board
HM Chief Inspector Prisons
Children's Commissioner (England)
British Association of Social Workers
Howard League for Penal Reform
Prison Reform Trust

Representatives from the Prison Officers' Association have also raised the issue with the current and previous Lord Chancellor and Ministers in face-to-face meetings.

Stakeholders' views

Almost all representatives were strongly opposed to the roll out of PAVA.

Most argued that its use was unfair and contrary to children's best interests, some specifically citing the UK's obligations under UNCRC. Others, most notably HM Chief Inspector of Prisons posited that it was unnecessary and that the YOIs could be run and operated in such a way as to not require its use.

There was some suggestion that roll out of PAVA may lead to a breakdown in relationships such that there was an increase in the overall number of violent incidents. This may be the case but, as set out above, the key goal is to reduce and more effectively tackle the small number of the most serious incidents which currently pose a real risk of serious harm.

There was strong support for the provision of PAVA from the Prison Officers' Association who argued that the current arrangements and trends were leading to unnecessary serious injury to staff and children. One police force has written to the YCS requesting consideration of PAVA use by officers due to the volume of staff assaults they have been responding to.

All views have been expressed without awareness of the more limited partial deployment of PAVA and were largely considering PAVA use consistent with the adult estate (as with police officers) where all officers carry it as part of their PPE.

13. What steps have been taken to directly or indirectly gather the views of children and young people and how have you taken their views into account?

Due to the highly sensitive nature of this policy, children have not been asked for their views on the implementation of PAVA in the 3 YOIs. YCS believe this would cause instability in an operational live environment. Therefore, the YCS have committed to ensuring their voices are heard during the evaluation period by the external researcher. This will inform the review by Ministers in 12 months of operation. Implementation of the policy change will see local dialogue and engagement with children ahead of PAVA being available for use. There has been some limited engagement with children and their voice has been heard in one YOI where five children who have been exposed to PAVA use (by the police or self-administered). Children reported that the PAVA was effective however it generated a sense of anger to the person administering the PAVA, questions of appropriateness

and post incident rumination with negative thoughts particularly when not considered to be proportionate. Therefore, the effective debriefing of children post incident to explore the incident and decision making, plus the youth specific policy focused on responding to actual acts of violence, notably with weapons or multiple assailants, represent a proportionate and necessary use rather than a basic level of personal protection for the staff member administering the PAVA in response to a perceived threat.