



Howard League for Penal Reform's submission to the SEND reform: putting children and young people first consultation

14 May 2026

1. The Howard League for Penal Reform runs the country's only specialist advice line for children and young people aged 21 and under in custody in England and Wales. In 2025, we took calls on our advice line from or on behalf of 158 children and young people where we recorded data about whether the young person had 'additional needs'. The vast majority (75%) of the young people were reported to have additional needs (such as a mental health condition, learning disability/difficulties, or a diagnosis such as ADHD or autism).
2. Through our advice line, we advise and support children and young people with Special Educational Needs and Disabilities (SEND) on a wide variety of issues around their treatment and conditions in custody. This includes issues such as support to effectively participate in prison disciplinary hearings, to challenge transfer decisions which would disrupt ongoing neurodiversity assessments, and to complain about inadequate educational provision in custody.

The state of education for children in custody

3. In 2025, the Howard League published an updated version of its joint briefing with the Independent Provider of Special Educational Advice (IPSEA) about educational provision for children in prison. The briefing explained that, while practitioners have concerns about the speech, language and communications needs and mental health needs of most children in custody, SEND provision varies across different types of youth custody, and in Secure Training Centres and Young Offender Institutions (YOIs) is deeply inadequate (Howard League and IPSEA, 2025).
4. The difference in educational provision is highlighted through inspection reports. For instance, in Clayfields House Secure Unit's most recent Ofsted full inspection report, education provision was described as "outstanding". The report stated "children benefit from highly structured, broad and very personalised curriculums that cover core subjects and the development of useful vocational skills" and "in education, children are respectful of peers and staff. Their behaviour is exemplary. Children develop very high levels of confidence and self-esteem through their learning. They are proud of their achievements" (Ofsted, 2025).
5. By contrast, in YOIs, access to education is extremely poor. At HMYOI Werrington, a report published by His Majesty's Chief Inspectorate of Prisons (HMIP) on 28 July 2025 stated "[p]rison leaders and neurodiversity staff had

established accurately that children with special educational needs or disabilities or education and health care plans represented around half the prison population. Education staff had not been giving these children appropriate support to meet their varied learning needs” (HMIP, 2025). At HMYOI Wetherby, a report published by HMIP on 9 July 2026 stated “[l]eaders rightly recognised that support was not routinely put in place swiftly enough for children who had special educational needs or disabilities, or education and health care plans. These children represented around three-quarters of the prison population.” (HMIP, 2026).

6. Figures obtained by the Howard League from January 2024 to March 2026 through FOIA requests show that at no point did any of the three English YOIs deliver the required minimum of 15 hours education a week for children: this is a statutory requirement for children of statutory school age. At HMYOI Feltham, the weekly average hours of education delivered in November 2025 was as low as 2.35 hours and has remained under 5 hours in every month since.¹
7. Through our legal work, we hear from children in YOIs who report education being frequently cancelled as well as concerns about the quality of education. Children on the segregation unit report being given workbooks to complete in their cell instead of education. If they do attend education, this is ‘outreach’ education and the amount of time that they are taught may depend on how many people require separate education, as one teacher’s time is split between different children. One child we spoke to who was segregated had been designated a ‘risk to females’ and was not able to access education at all, as the teacher was female.
8. The lack of access to education, and poor quality of education, inhibits children’s rehabilitation. The Howard League has represented hundreds of children in custody who were being released but did not have accommodation in place. Too often last-minute planning for accommodation meant that education was treated as an afterthought, to be confirmed once accommodation had been finalised, rather than as a pivotal part of the resettlement plan. We have seen some examples of good practice, such as heads of education at secure children’s homes going to meetings in the community post-release, but this is not the norm.
9. In our experience, children with special educational needs are rarely able to access the support that they are entitled to. We represented one child in a YOI who was keen to make the most of educational opportunities on offer there as he had missed so much education as a child. The child had an Education, Health and Care Plan (EHC Plan) and would have benefited from one-to-one support for Maths and English, which he had received at a previous YOI. After he requested this support, he was allocated to outreach education provision where he received one-to-one support but received significantly less education each day than when he was in a main education pathway. On transferring to the adult estate, the young person was no longer entitled to any support in custody through

¹ See <https://howardleague.org/news/new-figures-reveal-continued-failure-of-prisons-holding-children/>, and more recent information from responses to subsequent FOI requests.

his EHC Plan. This is because unlike in the community, where the rights and entitlements for young adults with EHC Plans extend up to the age of 25, young adults in custody are not included in the definition of detained children and young people in the Children and Families Act 2014. Support therefore ceases in custody on turning 18 and transitioning to the adult estate.

10. We represented one young person who had been referred for an EHC needs assessment by his community professional team. This was initially incorrectly declined on the basis that he was not entitled to an EHC needs assessment whilst he was in custody. This is not what the law says, and the local authority subsequently accepted that he was entitled to an EHC needs assessment. However, this confusion regarding the young person's rights and entitlements caused significant delay to the EHC needs assessment process for him and highlights disadvantages that children in custody can face.

The SEND review's silence on the rights of children and young people in custody

11. The Howard League is deeply concerned that in this SEND review, there is **no mention at all of children in custody**, despite the high proportion of children with SEND in custody and the fact that, in comparison to children in the community, they are disproportionately likely to have SEND (Howard League and IPSEA, 2025). Many children in custody have needs that are unidentified and unmet, and yet the proposals contain no information about how children in custody with SEND may be provided with additional training or funding (as is being proposed for schools).
12. The Howard League endorses IPSEA's warning that the proposed changes could water down young people's existing rights and entitlements and risk weakening individual, enforceable rights. We are concerned that fewer children will be entitled to "new style" EHC Plans, that Special Educational Provision (SEP) will be based on pre-determined rather than individual needs, and that there will be fewer ways to challenge decisions and a weakening of the Tribunal's powers. Successful appeals are a sign that local authorities are making unlawful decisions, and do not mean that the redress process needs to change. Instead, the solution must be better compliance with the existing law.
13. The absence of any mention of children in custody at all means there is no clarity about how they will be affected by the proposed changes. The proposed reforms centre around an assumption that every child should receive the education that they need in a nursery, school or college and introduces new legal duties on schools to secure the 'educational offer' and to specify day to day special educational provision in the Individual Support Plan (ISP). For those who are not educated in a school, such as children in custody, it is unclear who will hold the duty to secure the educational offer, and to create and deliver an ISP.
14. At present, there is a legal duty under s. 74 Children and Families Act 2014 to keep an EHC Plan in place whilst a child (or 18-year-old young person in the children's secure estate) is detained and to arrange appropriate special educational provision and health care provision to meet the child/young person's

needs. It is unclear what the consequences of the proposed changes will be for this legal duty. As is set out above, we too often see that children and young people in custody do not receive the educational support that they require and are entitled to. Children in custody already have weaker entitlements than their peers in the community. It is critical these entitlements are not weakened further. It appears that the consequence of these proposed reforms risks exactly this happening, given the shift away from local authorities holding the duties towards schools. Any reform must contain provisions that deal expressly with the situation for children in custody, who are not in a school.

15. We are concerned about the proposed changes to the EHC needs assessment process. The proposal that only those who are already working with a child or young person will be involved in a needs assessment process risks missing the input of professionals and experts who could add valuable insight into a young person's needs, who are not yet working with a child but should be. This is likely to impact on children in custody in particular, many of whom will come to custody with unrecognised or unidentified needs.
16. The proposed changes mark a shift away from EHC Plans on the basis of individual needs, towards EHC Plans which centre around pre-determined packages of support (Specialist Provision Packages). We are concerned that this will raise the threshold for requiring an EHC Plan and could lead to a reduction in the number of children in custody entitled to an EHC Plan. We consider that the individual needs of children in custody should be explicitly acknowledged and taken into account, given the risk that they may not fit neatly into broadly created Specialist Provision Packages. It is also unclear what will happen for children in custody who already have an EHC Plan: will their current EHC Plan be reassessed at the end of their 'phase' of education as will occur in mainstream schools or will they, like children in a special school, keep their plan without it being reassessed?
17. The SEND reform's silence on children and young people in custody must be urgently rectified. Any reform undertaken must make explicit provision for children and young people in custody, ensuring that they are not disadvantaged in comparison to their peers in the community. There should also be improvements to SEND law and practice so that children in custody have the same rights of appeal to the SEND Tribunal as other children, and young adults are included in the definition of detained children and young people in the Children and Families Act 2014. Legal rights for children and young people in custody must not be weakened, and they must be enforceable.
18. Finally, we note from the first consultation question that the Government want children, young people and their families to be involved in decision-making about SEND and ask how to make sure children, young people and their families have a "genuine say" in these decisions. It is critical that the voices of children and young people in custody, or who have experience of custody, are represented,

including in the consultation process. We would be happy to be contacted to discuss this further.

References

His Majesty's Inspectorate of Prisons (2025) *Report on an unannounced inspection of HMYOI Werrington by HM Chief Inspector of Prisons 15 April – 2 May 2025*.

Available at:

<https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/19/2025/07/Werrington-2025-web.pdf>

His Majesty's Inspectorate of Prisons (2026) *Report on an unannounced inspection of HMYOI Wetherby by HM Chief Inspector of Prisons 27 October – 6 November 2025* Available at:

Available at:

<https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/19/2026/01/HMYOI-WETHERBY-web-2025.pdf>

Howard League (2026) *New figures reveal continued failure of prisons holding children*. Available at:

<https://howardleague.org/news/new-figures-reveal-continued-failure-of-prisons-holding-children/>

Howard League for Penal Reform and Independent Provider of Special Educational Advice (2025). *Education inside penal detention for children in England*. Available at:

<https://howardleague.org/wp-content/uploads/2025/08/IPSEA-and-Howard-League-updated-guide-2025-1.pdf>

Ofsted (2025) *Clayfields House Secure Unit Full Inspection*. Available at:

<https://files.ofsted.gov.uk/v1/file/50287925>