

# **DfE Regulating Supported Accommodation consultation**

**Response by the Youth Justice Board for England and  
Wales**

January 2023

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# The Youth Justice Board for England and Wales<sup>1</sup>

YJB is a non-departmental public body (NDPB) with a unique focus on children and young people in the youth justice system. Our statutory responsibilities along with the expertise of our Board enable us to set standards for, and monitor the operation of, the youth justice system. Our work with the YJS gives us an operational focus, which allows us to inform national policy and maintain a focus on the continuous performance improvement of the YJS. The YJB is the only official body to have oversight of the whole youth justice system and so is uniquely placed to guide and advise on the provision of youth justice services.

## Vision

Working to ensure a youth justice system that sees children as children, treats them fairly and helps them to build on their strengths so they can make a constructive contribution to society. This will prevent offending and create safer communities with fewer victims.

## Youth Justice System Aims

Our Board have established the Youth Justice System Aims which are not only for the YJB to work towards but for the youth justice community as a whole. They are:

- 1) To reduce the number of children and young people entering the youth justice system
- 2) To reduce reoffending from children and young people in the youth justice system
- 3) To improve the safety and wellbeing of children and young people in the youth justice system
- 4) To improve the positive outcomes of children and young people in the youth justice system

## Our role

The role of the YJB is to oversee the youth justice system in England and Wales. The statutory responsibilities of the YJB include:

- Advising the Secretary of State on the operation of, and standards for, the youth justice system;
- Monitoring the performance of the youth justice system;
- Identifying and promoting good practice;
- Commissioning research and publishing information

While the YJB is responsible for monitoring the performance of the youth justice system including community based multi-disciplinary youth justice services, the YJB is not an operational or commissioning body. Youth justice services (YJS) are Youth Offending Teams in statute as specified within the Crime and Disorder Act<sup>2</sup>

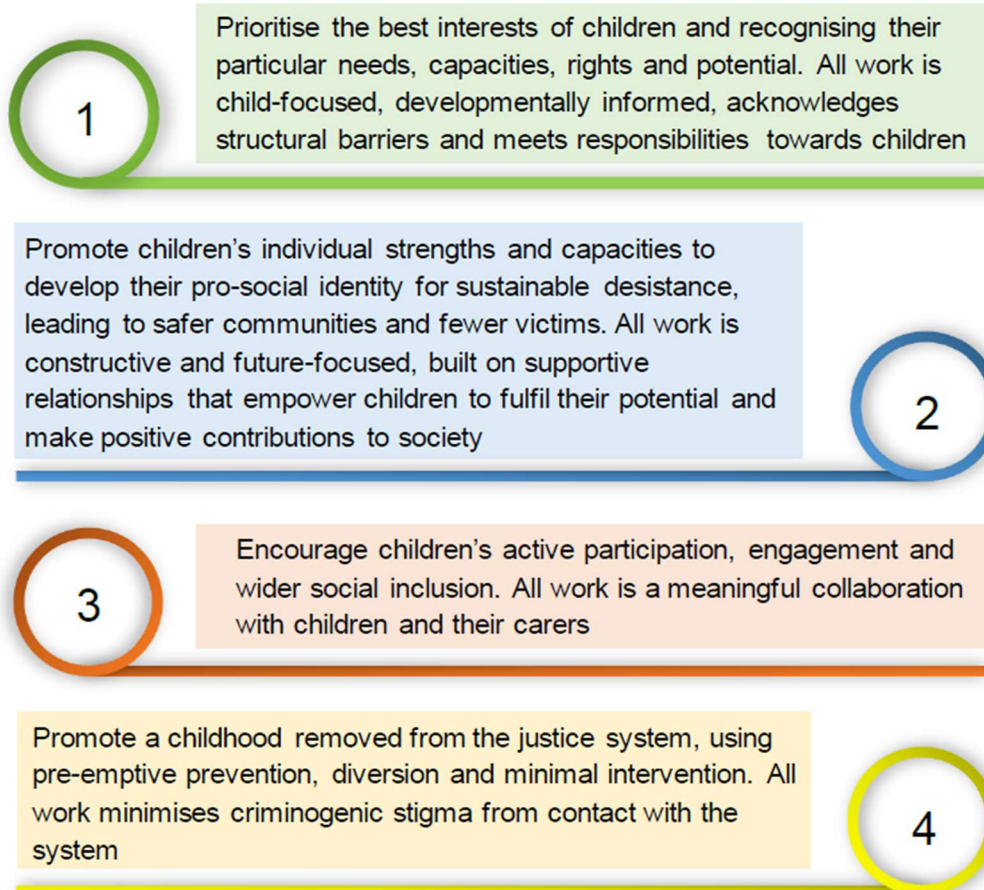
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<sup>1</sup> YJB Business plan 2022-23 [Formal document \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

<sup>2</sup> [Crime and Disorder Act 1998 \(legislation.gov.uk\)](https://legislation.gov.uk)

## Introduction

At YJB we are committed to our over-arching guiding evidence-based principle of Child First<sup>3</sup> outlined below.



Thank you for the opportunity to contribute to the Department of Education's consultation on regulating supported accommodation for looked after children and care leavers aged 16 and 17. Given our specialist knowledge and understanding of issues relating to children in the justice system we are confining our response to pertinent aspects of the consultation along with broad principles we believe are applicable to all children.

We welcome the clear signalling in the guidance that whilst the language speaks to 'young people' that 16-17 year olds remain very much children and as such should be treated accordingly. As you will know our organisational preference is not to draw the distinction between children of any age in order to underline the specific needs of those under 18 years, legally and developmentally. However, we understand and respect the rationale presented within the guidance for the use of language as presented.

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<sup>3</sup> Case S. and Browning A. (2021) Child First Justice: the research evidence-base [Full report]. Loughborough University. Available online at <https://hdl.handle.net/2134/14152040.v1>

## Youth Justice Board response

The standards themselves are very positive, and we were pleased to note that they are ambitious and strengths-based with a strong emphasis on the individual needs of children. Much of what has been set out aligns strongly with YJB's [Child First principles](#), and the emphasis on multi-agency working and staff being aware of the impact of trauma and adverse childhood experiences (ACE) is particularly positive. Given the complex needs of children with experience of the justice and care system it is especially important they are able to access wider areas of support where available, as well as education and healthcare services, and we welcome this being taken into consideration.

It is helpful to have assurance that irrespective of age, accommodation provision for vulnerable children is of an agreed quality so as not to exacerbate their vulnerabilities. It is further helpful that these standards will form part of Ofsted's inspection regime. A child in contact with the YJS may well be amongst the most vulnerable, for instance they may be subject to exploitation of differing kinds or have experience of other ACEs, or instability of placements in the past. These can all contribute towards attachment issues and potentially manifest through challenging behaviour which needs to be understood in context. While there may be circumstances where supported accommodation is right for a child who has had/is in contact with the YJS, care should always be taken that this does not hinder resettlement or compound existing vulnerabilities.

In addition, it is positive to note that the protection standard states that the registered provider must carry out a location assessment for their accommodation focusing on any safeguarding concerns and that the risk of exploitation is understood, as well as a missing child policy being put in place. Children in supported accommodation may be at particular risk of exploitation due to their age and existing vulnerabilities - in turn this exploitation may have led to them having contact with the justice system and exhibition of challenging behaviours which as noted above need to be understood in context. Care should be taken not to further criminalise children because of their vulnerabilities and exploitation and staff should guard against doing so, irrespective of a child's behaviour. The guidance mentions that staff should seek to work with the local authority and relevant local agencies in order to mitigate certain safeguarding risks, including police and youth justice services, which we feel is particularly crucial. Local police forces will often have a lot of soft intelligence regarding the accommodation within the boundaries of its area and potentially those individuals or organisations operating the accommodation. It would be immensely helpful for local authorities to have access to this information to take into consideration particularly when placing children in areas that they are not necessarily as familiar with. This would require data sharing agreements with relevant police forces and processes for accessing intelligence. It is also worth noting that a number of children the local authority will be looking to place may have been released under investigation by the police while any potential crime is being investigated. The added anxiety of this hanging over a child may increase their vulnerability and should therefore be considered when they are being placed.

Local authorities should consult with the local authority within which the accommodation provision sits when placing children out of area. We are aware anecdotally that there are instances where local authorities will not consider certain accommodation providers in their area due to concerns over the quality of provision, however, other authorities continue to use this provision. There currently does not seem to be adequate mechanisms through which to share this intelligence and this must be addressed through data sharing agreements and processes.

As a more general point, there is no mention of girls specifically in the guidance. Between 2014-16 64% of girls who entered custody were currently or had previously been looked after<sup>4</sup>. Girls are more likely to enter the justice system having been exposed to multiple childhood adversities, trauma and experiences of victimisation, and staff working with girls in secure accommodation should be sensitive to their specific vulnerabilities and adapt to their needs appropriately. This could include complex issues such as neurodivergent conditions and pregnancy. It is important to recognise that girls are potentially at an increased risk of harm and further trauma, and this should be taken into consideration when girls are being placed into supported accommodation. Though gender-neutral, responses to placing individual children should be gender-specific and the guidance should be clear on the specific needs and vulnerabilities of girls.

More specifically regarding the behaviour management policy in secure settings, the approach must emphasise that care needs to be taken to understand the child's behaviour within the context of their past experiences. Where children have experienced trauma and ACEs they may be more likely to behave in ways perceived as challenging by others which might attract restraint being used. In turn their experience will impact upon how they respond to restraint which may serve to only escalate the situation further. Behaviour management policies should clearly foreground the needs and vulnerabilities of children and staff should be trained and supported in responding accordingly.

The YJB consider that behaviour management techniques should be based on a positive reinforcement model that recognises children's vulnerabilities, varying needs and supports a child to process their emotions and learn to manage their own behaviour. These techniques should be underpinned by staff who are specialised in working with children and able to care for them holistically, whilst modelling pro-social behaviours. This should include staff working in supported accommodation settings and those working with children in this environment. Restraint should never be considered or used as a form of behaviour management. Only in exceptional circumstances where a situation presents a significant risk to safety that may result in immediate harm would we consider it may be permissible to use force with a child. In such circumstances any such force should always follow accredited techniques and be applied at the lowest level for the shortest time possible. Following any use of force there should be follow up to ensure the wellbeing of the child and to learn lessons so as to reduce the likelihood of future incidents.

Finally, we note that you have not taken the approach of introducing a ban on the use of non-permanent settings when placing children. Whilst we appreciate that it

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<sup>4</sup> [Griffins Research Paper 2019-02 - FINAL \(thegriffinsociety.org\)](https://www.thegriffinsociety.org) Pg.19

may sometimes be culturally appropriate to place children in such settings (for example, if the child is from the Gypsy, Roma and Traveller community) and we agree with the position that generally such settings would not be deemed an appropriate setting for children. Our view is that careful consideration needs to be given before placing a child in such a setting and the same standards of quality should be maintained. More specifically, we would be concerned that if a child is placed in accommodation that isn't static and moves geographical location it may make it more difficult for them to keep appointments and manage themselves within their environment. There is also potential for increased safeguarding concerns as the child may inadvertently find themselves in an area which poses greater threat to them, perhaps from a gang or peer group. Children who have had this experience are likely to be the most vulnerable and have the most complex needs and it is essential they are placed in a stable environment with ongoing access to appropriate support to mitigate any existing trauma. Decisions in such circumstances should be made by workers with expertise and always in the best interests of the child.

Safeguarding children should be the primary consideration and creating a safe platform to support them develop a positive pro social identity moving into adulthood. This is not only to the benefit of the child but to the communities in which they live through their potential contribution to society. The lack of suitable accommodation puts children with experience of the care system even more at risk of harm and exploitation. Those looking to exploit them can become aware of the locations of easily accessed placements and it is vital that the most vulnerable children are not placed into the least secure environments. It may be useful for local authorities to have to provide evidence as to why children would be placed in a non-permanent setting and why it was felt that this was the best option.

Should you wish to discuss the content of this submission in further depth we would be happy to do so. Meanwhile, we want to congratulate you on an excellent piece of work and one which should impact positively on the lives of children within supported accommodation environments.