

Children Member Guidance

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Contents

Executive Summary	5
1 Introduction	7
2 Definition	7
3 Principles and underpinning legislation	7
<i>Key principles</i>	8
<i>UN Convention on the Rights of the Child</i>	8
<i>Children & Young Persons Act 1933</i>	10
<i>Children Act 1989</i>	11
<i>Children Act 2004</i>	11
<i>The Social Services and Well-being (Wales) Act 2014</i>	12
<i>Council of Europe Guidelines on Child-Friendly Justice</i>	12
<i>Child first approach</i>	13
4 Parole Board policies	15
<i>Parole Board prioritisation policy for children</i>	15
<i>Parole Board oral hearing policy for children</i>	15
5 Advice for panels	16
<i>Member Case Assessment (MCA)</i>	16
<i>Key Considerations</i>	17
<i>Childhood Experience</i>	17
<i>Location of the child</i>	17
<i>Other considerations</i>	18
<i>Resettlement</i>	19
<i>Care leavers and pathway plans</i>	19
<i>Accommodation</i>	20
<i>Legal representation</i>	21
<i>The benefits of an oral hearing</i>	22
<i>Directing to oral hearing</i>	23
<i>The oral hearing</i>	24
<i>Questioning children</i>	25
<i>Adjourning</i>	27
<i>Issuing the decision</i>	27
6 Risk management and interventions	28
<i>Understanding children and risk</i>	28
<i>Risk Assessment tools for children</i>	30

Risk of reoffending 30

Violent offending..... 31

Sexual offending 31

Maturity 31

Mental health 32

Interventions for children 32

Secure Stairs..... 33

Support for Children..... 35

7 Key agencies involved..... 35

Youth Offending Teams/Youth Justice Service 35

Youth Custody Services Placement Team..... 36

The Youth Justice Board 39

8 Sentences for children 39

Executive Summary

Children Guidance

Definition (section 2)

Section 105 of the Children Act 1989 (‘the 1989 Act’) defines a child as a person under the age of 18.

For parole purposes, it is the **person’s age at the point of referral** which defines whether they must be dealt with as a child for that parole review. Accordingly, where the person is under 18 years old when the referral is received, the law requires that they must be dealt with as a child and this guidance should be applied.

This guidance should continue to be applied where the person turns 18 during the course of the parole review, but the [Young Adults Guidance](#) should *additionally* be considered.

Key Principles (section 3)

The following key principles, which are underpinned by legislation and caselaw, apply:

- Children should be treated differently from adults
- The best interests of the child must be a primary consideration
- The child should be heard
- Detention must be for the shortest possible time
- The rights and dignity of the child must be respected
- The child should have access to legal help
- The welfare of the child must be given due regard by all involved
- Children “in need” should receive appropriate support
- Protection from harm should not be separated out from the wider objective of improving the child’s life
- There must be cooperation between the relevant bodies and agencies

Child First (3.31-3.33)

The Youth Justice Board has adopted the evidence-based “Child First” principle, which advocates that children are treated as children. The approach centres upon putting children at the heart of service provision, as well as seeing the whole child, identifying and tackling the influences on offending, and identifying and promoting the influences that help the child move towards pro-social, positive behaviour.

HM Inspectorate of Probation shares this understanding of the evidence base for the Child First approach:



Parole Board Policies (section 4)

The following policies are in place for child cases:

- *The Parole Board will automatically prioritise, irrespective of review/sentence type, the cases of individuals who are under the age of 18 at the point of referral. This is for both MCA and oral hearing listing.*
- *Automatic granting of an oral hearing, if the individual cannot be released on the papers, for those who are under the age of 18 at the point of referral.*

Panels should approach the test for release in exactly the same way as any other case. Public protection must remain the overriding concern.

Panels should keep the key principles in mind when dealing with parole reviews for children both from a procedural perspective and when assessing risk.

MCA Stage (5.3-5.43):

At the MCA stage, panels will need to take account of the following:

- Adverse Childhood Experiences (ACE)
- Indications of mental health issues or disorders
- Relevance of maturation and development to risk
- Communication or speech considerations
- Resettlement plans, particularly in relation to accommodation
- The location of the child and the risk of transferring into the adult estate if there are delays

It is important to ascertain if the child has a social care status. In the majority of child cases there will be a social care plan and often a pathway plan alongside a risk management plan.

If release on the papers cannot be directed, then an oral hearing is required.

Legal Representation (5.44-5.50):

Article 40 of the UN Convention on the Rights of the Child provides that children in detention **should have legal help**.

It is essential that the child be supported to obtain legal representation at the earliest opportunity.

Oral Hearing Stage (5.51-5.65):

The guidance sets out the benefits of an oral hearing and the considerations needed when planning for an oral hearing. There is advice on how to adapt proceedings and suggestions for directions that may assist and additional steps that may be required, for example

considering who may be helpful to attend as an observer to support the child.

Questioning a Child (5:66-5.69):

Panel chairs must have completed the mandatory training on questioning vulnerable prisoners (QVP) before chairing a child case.

The panel will need to draw on the QVP training's 20 principles and use the skills acquired to ensure the best approach is taken when questioning the child.

Risk Assessment Tools and Interventions (section 6):

It is important to assess whether appropriate support has been provided to the child to make the necessary changes that would allow release.

This guidance provides details about the most common risk assessment tools and interventions for dealing with child cases.

AssetPlus is the Youth Justice Board's assessment and interventions planning framework and is based on a desistance-centred approach to youth justice, which aims to reduce offending behaviour. It is the equivalent of the OASys for adults.

SECURE STAIRS is an integrated approach within Youth Custody, and the main framework utilised throughout the estate. It will be helpful for panels to understand the principles, particularly when considering how this applies to risk management/reduction.

Key Agencies Involved (section 7):

- Youth Offending Teams/Youth Justice Service;
- Youth Custody Service Placement Team;
- Youth Justice Board.

For panels reviewing the case of a young adult, aged between 18 and 21 inclusive, see the separate [Young Adults guidance](#).

1 Introduction

- 1.1 This guidance sets out information and advice concerning parole reviews for children serving custodial sentences who are parole eligible or, where they have been recalled and it is for the Board to determine re-release. It sets out relevant legislation, Parole Board policy, and advice for panels dealing fairly and fittingly with individuals in this age group. Section five provides specific advice and best practice.
- 1.2 Within the criminal justice system, the terms children, young person, youth, and juvenile are often used interchangeably. To avoid confusion this guidance uses the term "child" or "children".
- 1.3 Separate guidance is available for panels dealing with young adults, aged between 18 and 21 inclusive. Information within the *Young Adults Guidance* may also be useful reading.

2 Definition

- 2.1 Section 105 of the Children Act 1989¹ ('the 1989 Act') defines a child as a person under the age of 18.
- 2.2 For parole purposes, it is the **child's age at the point of referral** to the Parole Board by the Secretary of State which defines whether they must be dealt with as a child for that parole review. Accordingly, where the child is under 18 years old when the referral is received, the law requires that they must be dealt with as a child and this guidance should be applied.

3 Principles and underpinning legislation

- 3.1 The Parole Board statutory test for release applies equally to children as for adults. The overriding criterion is that release or re-release can only be directed if a panel is satisfied that it is no longer necessary for the protection of the public that the person be confined in custody.
- 3.2 Children represent a small proportion of Parole Board cases. However, it is recognised that **children legally and developmentally require a different approach from adult prisoners** and, to some extent, young adult prisoners (although many features of a young adult case may require a similar "child" approach).
- 3.3 In all decisions concerning children, **the child's best interests are a primary (but not the only) consideration**. Public protection *must* remain the over-riding concern.
- 3.4 Panels are advised to **avoid using stigmatising labels** such as offender, prisoner, prison, imprisoned etc and consider more age-appropriate language such as resident, detained, etc and using child/children wherever possible.

¹ [Children Act 1989](#)

- 3.5 Children should be **addressed by their first names as they would be in their custodial setting**. It may be helpful to ascertain from professionals working most closely with the child the name they prefer to be used and the language that they are familiar with and understand.

Key principles

- 3.6 The following is a list of the key principles:

- Children should be treated differently from adults;
- The best interests of the child must be a primary consideration;
- The child should be heard;
- Detention must be for the shortest possible time;
- The rights and dignity of the child must be respected;
- The child should have access to legal help;
- The welfare of the child must be given due regard by all involved;
- Children "in need" should receive appropriate support;
- Protection from harm should not be separated out from the wider objective of improving the child's life;
- There must be cooperation between the relevant bodies and agencies.

- 3.7 These principles are underpinned by legislation and case law.

- 3.8 **That children should be treated differently to adults** is recognised in both domestic and international law. In *R v Lang*,² the Court recognised that children in conflict with the law "*...to bear in mind that, within a shorter time than adults, they may change and develop.*"

*In R(F and Thompson) v Secretary of State for the Home Department*³ it was recognised that: "[t]he courts have consistently approached consideration of measures which are to be applied to children on the basis that the immaturity of a child offender must be taken into consideration as being of prime importance. This recognises the fact that a child well may change as he or she matures so that any problems or dangers which may have been apparent at the time of the commission of the offence may ultimately no longer be present..."

UN Convention on the Rights of the Child

- 3.9 The United Nations Convention on the Rights of the Child (UNCRC),⁴ which came into force in 1990, has been held by the Courts to be applicable⁵ where (as in the case of a parole review) a right under the European Convention on Human Rights is engaged.

²[R v. Lang & 12 others \[2006\] 2 All ER 410](#)

³[\[2008\] EWHC 3170 at para 19](#)

⁴[UN Convention on the Rights of the Child](#)

⁵ *In R (K) v Parole Board*[2006] EWHC 2413 (Admin), the Court noted that the common law obligations of fairness towards young people may be informed by reference to the UNCRC; *In the case of R (on the application of C) v Secretary of State for Justice*[2008] EWCA Civ 882 (28 July 2008), the Court of Appeal noted that Article 3 ECHR, as it relates to young people, should be interpreted 'in the light of' international conventions, and also of the views of the UN Committee on the Rights of the Child, and the Joint Committee on Human Rights.

- 3.10 The convention describes the conditions necessary for a safe, happy and fulfilled childhood for a child up to the age of 18. For any criminal justice system, it goes without saying that children who are accused of breaking the law should not be treated cruelly or inhumanely, nor put permanently in prison, or placed in prison with adults. Detention should always be as a matter of last resort when all other options have been explored and exhausted.
- 3.11 Article 3(1) of the UNCRC provides that: *"In all actions concerning young people, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests** of the young person shall be a primary consideration."*
- 3.12 In the judgment in the case of *ZH (Tanzania)*,⁶ the Supreme Court held that the best interests' principle has been 'translated' into national law by section 11 of the Children Act 2004.

In that case (paragraph 23), Baroness Hale stated: *"This is a binding obligation in international law, and the spirit, if not the precise language, has also been translated into our national law. Section 11 of the Children Act 2004 places a duty upon a wide range of public bodies to carry out their functions having regard to the need to safeguard and promote the welfare of children..."*.

Lord Kerr also stated (paragraph 46): *"It is 'a universal theme' of both international and domestic instruments: that, in reaching decisions that will affect a child, **primacy of importance must be accorded to his or her best interests**. This is not, it is agreed, a factor of limitless importance in the sense that it will prevail over all other considerations. It is a factor, however, that must rank higher than any other. It is not merely one consideration that weighs in the balance alongside other competing factors. Where the best interests of the child clearly favour a certain course, that course should be followed unless countervailing reasons of considerable force displace them."*

The *ZH* case concerned a decision to deport someone. But it is likely that the judgment would be interpreted so that bodies such as the Parole Board have a duty to ensure that a child's best interests are protected. This does not, however, supersede the statutory requirement to protect the public.

- 3.13 Article 12 of the UNCRC promotes the principle that **children should be heard**:

*1. States Parties shall assure to the child who is capable of forming his or her own views **the right to express those views freely** in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

⁶ [ZH \(Tanzania\) v Secretary of State for the Home Department \[2011\] 2 WLR 148](#)

2. For this purpose, the child shall in particular be provided the opportunity to **be heard in any judicial and administrative proceedings** affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

This means that when adults make decisions about children's lives, those children should be asked what they think and feel. Adults' decisions need to take these into account.

3.14 Article 37 of the UNCRC provides that children should only be in prison as a last resort and then only **for the shortest appropriate period of time**.

3.15 Article 40(1) of the UNCRC provides that:

*Every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the **child's sense of dignity and worth**, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.*

3.16 Article 40 of the UNCRC provides that children in detention **should have legal help** and be able to stay in contact with their families. Any child who has been placed somewhere away from home for their care, protection, or health should have the situation examined regularly to check on their well-being and welfare and if this remains the most appropriate setting for them.

Children & Young Persons Act 1933

3.17 Before adoption of the UN Convention on the Rights of the Child, the Children Act 1908 and a series of Children & Young Persons Acts (1920, 1933, 1963, 1969) had introduced provisions into legislation particularly relating to the treatment of children in the justice system. The 1933 Act,⁷ for example, raised the age of criminal responsibility to 10 years old and provided protection from the press concerning the identity of a child appearing in court.

3.18 Section 44 of the 1933 Act applied to the work of the Parole Board:

*"Every court in dealing with a child ... who is brought before it, either as an offender or otherwise, shall have regard to the **welfare of the child** ... and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training."*

⁷ [Children and Young Persons Act 1933](#)

Children Act 1989

3.19 The Children Act 1989⁸ updated the 1908 legislation and subsequent Children & Young Persons Acts. It put into UK law the principles drafted that year as the UN Convention on the Rights of the Child. In particular, the Act defines **the responsibility of parents, local authorities, courts and other agencies for safeguarding, protecting children from harm, and promoting their welfare.**

3.20 Section 17 of the 1989 Act deals with “**Children in Need**”. Section 17 (10) and (11) give some definition to who is a child “in need”:

(10) For the purposes of this Part a child shall be taken to be in need if—

- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;*
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or*
- (c) he is disabled,*

(11) For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—

“development” means physical, intellectual, emotional, social or behavioural development; and “health” means physical or mental health.

3.21 Panels should be mindful that the children whose cases they assess may be children “in need”. They should seek assurances that, where this is applicable, appropriate referrals to the Local Authority have been made. This is particularly important prior to release from custody.

3.22 In a landmark High Court judgment⁹ delivered in November 2002, Mr Justice Munby ruled that the duties, under the 1989 Act, of local authorities with social services responsibilities do continue to apply for children in custody, subject to the necessary requirements of that custody.

Children Act 2004

3.23 The Children Act 2004¹⁰ builds on and strengthens the safeguarding framework set out in the 1989 Act through new provisions which recognise that **protecting children from harm cannot be separated from the wider objective of improving their lives as a whole.**

⁸ [The Children Act 1989](#)

⁹ [\[2002\] EWHC 2497 \(Admin\)](#)

¹⁰ [The Children Act 2004](#)

- 3.24 The emphasis of all programmes and initiatives must be on multi-agency working at local level to improve outcomes for children.
- 3.25 Section 10 of the 2004 Act (Section 25 for Wales) requires **cooperation between local authorities and other specified bodies or agencies** to improve the wellbeing of children in the authority's area. It defines wellbeing in terms of the following outcomes:
- physical and mental health and emotional wellbeing
 - protection from harm and neglect
 - education, training and recreation
 - the contribution made by the children to society
 - social and economic wellbeing.
- 3.26 The Powers of Criminal Courts (Sentencing) Act 2000 and the Criminal Justice Act 2003 updated section 53 of the Children & Young Persons Act 1933, addressing the needs of children serving longer sentences for serious offences. Sections 92 and 235 respectively of these acts provided the Secretary of State with statutory responsibility to place a child anywhere that is suitable, including dedicated units and regimes created for under-18-year-olds. Prison Governors holding children have no formal duty to cooperate under Section 10, but establishments can make an important contribution to those outcomes.
- 3.27 Section 11 of the 2004 Act (Section 28 for Wales) places a duty on key people and bodies, including Governors of prisons, to make arrangements to ensure that their **functions are discharged with regard to the need to safeguard and promote the welfare of children**, and that the services they contract out to others are provided having regard to that need. It is supported by statutory guidance which Governors must take into account and, if they decide to depart from it, have clear reasons for doing so.

The Social Services and Well-being (Wales) Act 2014

- 3.28 Whilst parts of the above Acts do still apply to Wales, there is now also the Social Services and Well-being (Wales) Act 2014¹¹ which came into force on 6 April 2016. The Act provides the legal framework for **improving the well-being of children**, young people and adults who need care and support, and carers who need support. It includes a duty on local authorities to provide services to prevent children from offending and to **promote their welfare and wellbeing**. The law about assessment of needs of children in Wales is now in Parts 3 and 4 of the 2014 Act.

Council of Europe Guidelines on Child-Friendly Justice

- 3.29 Although not legally binding, Council of Europe Guidelines on Child-Friendly Justice, November 2010¹² has produced helpful guidelines.

¹¹ [The Social Services and Well-being \(Wales\) Act 2014](#)

¹² http://www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp

3.30 The section that deals with arrangements for judicial proceedings provides:

Part IV(D)(5). Organisation of the proceedings, child-friendly environment and child-friendly language

- *54. In all proceedings, children should be treated with respect for their age, their special needs, their maturity and level of understanding, and bearing in mind any communication difficulties they may have. Cases involving children should be dealt with in non-intimidating and child-sensitive settings.*
- *55. Before proceedings begin, children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved.*
- *56. Language appropriate to children's age and level of understanding should be used.*
- *57. When children are heard or interviewed in judicial and non-judicial proceedings and during other interventions, judges and other professionals should interact with them with respect and sensitivity.*
- *58. Children should be allowed to be accompanied by their parents or, where appropriate, an adult of their choice, unless a reasoned decision has been made to the contrary in respect of that person.*
- *59. Interview methods, such as video or audio-recording or pre-trial hearings in camera, should be used and considered as admissible evidence.*
- *60. Children should be protected, as far as possible, against images or information that could be harmful to their welfare. In deciding on disclosure of possibly harmful images or information to the child, the judge should seek advice from other professionals, such as psychologists and social workers.*
- *61. Court sessions involving children should be adapted to the child's pace and attention span: regular breaks should be planned and hearings should not last too long. To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum.*
- *62. As far as appropriate and possible, interviewing and waiting rooms should be arranged for children in a child-friendly environment.*
- *63. As far as possible, specialist courts (or court chambers), procedures and institutions should be established for children in conflict with the law. This could include the establishment of specialised units within the police, the judiciary, the court system and the prosecutor's office."*

Child first approach

3.31 The Youth Justice Board (YJB) has adopted the evidence-based principle "Child First", which advocates that children are treated as children. The "Child First" approach is based upon international evidence gathered over in excess of twenty years indicating this to be the most effective means of preventing offending by children.

- 3.32 The approach centres upon putting children at the heart of service provision and seeing the whole child, identifying/tackling the influences on offending and identifying/promoting the influences that help them to move to pro-social, positive behaviour. The “Child First” approach has four tenets (ABCD):¹³

As children: Prioritise the best interests of children and recognising their particular needs, capacities, rights and potential. All work is child-focused, developmentally informed, acknowledges structural barriers and meets responsibilities towards children.

Building pro-social identity: Promote children’s individual strengths and capacities to develop their pro-social identity for sustainable desistance, leading to safer communities and fewer victims. All work is constructive and future-focused, built on supportive relationships that empower children to fulfil their potential and make positive contributions to society.

Collaborating with children: Encourage children’s active participation, engagement, and wider social inclusion. All work is a meaningful collaboration with children and their carers.

Diverting from stigma: Promote a childhood removed from the justice system, using pre-emptive prevention, diversion and minimal intervention. All work minimises criminogenic stigma from contact with the system.

- 3.33 HM Inspectorate of Probation shares this understanding of the evidence base and sets out the following key findings of the “Child First” approach:¹⁴

- Children are different to adults and should be treated according to their age and particular circumstances, with a focus on addressing unmet needs and creating opportunities to help them realise their potential.
- A focus is required on shifting potentially ‘pro-offending’ identities to those which are ‘pro-social’. Positive relationships with children are crucial for reaffirming their individual strengths, with activities needing to be constructive and future-focused to help children move forward.
- Children are more likely to engage where they feel as though they are part of the process. Youth justice responses should thus work *with* children rather than *doing to* them, with children having a voice and supported to invest in the process and the potential benefits.
- Diversion from formal criminal justice processes can help to minimise stigmatisation or labelling effects. Crucially, diversion requires other substantive services to be available locally, with a range of options in place to address unmet needs and welfare concerns and promote social inclusion.

¹³ [The Youth Justice Board strategy for delivering positive outcomes for children by reducing offending and creating safer communities](#)

¹⁴ [HM Inspectorate of Probation – Child First](#)

4 Parole Board policies

- 4.1 Fairness is a universal principle of the Parole Board. This is underpinned by the judgment in the case of *Osborn*¹⁵ concerning the requirement for staging oral hearings.
- 4.2 Oral hearings should provide opportunities for children to engage more meaningfully in their parole review and have their voice heard by those making the decision about their liberty. An oral hearing may offer a chance to counter the risk of bias within the system. In all cases involving children, the Parole Board must take a sensitive and child-centred approach to ensure fairness.
- 4.3 More information about the benefits of staging an oral hearing can be found in paragraph 5.51.

Parole Board prioritisation policy for children

- 4.4 All child cases must be prioritised at both the MCA and oral hearing stage. The Prioritisation Framework for Paper Reviews under the MCA Process states:

The Parole Board will automatically prioritise, irrespective of review/sentence type, the cases of prisoners¹⁶ who are under the age of 18 at the point of referral. The paper review will be panelled once the case is ready for the MCA process, on the next available panel date.

Parole Board oral hearing policy for children

- 4.5 In July 2022, the Parole Board Management Committee reinstated the following policy in relation to the MCA paper review stage:

Automatic granting of an oral hearing, if the prisoner cannot be released on the papers, for prisoners who are under the age of 18 at the point of referral (child cases).

- 4.6 Where an oral hearing is required, the Listing Prioritisation Framework for Oral Hearings states:

The Parole Board will automatically prioritise, irrespective of review/sentence type, the listing of prisoners who are under the age of 18 at the point of referral. The hearing will be listed once the case is ready to list and will be listed according to the availability of the required witnesses.

- 4.7 There will be cases where the sentence was given to a child, but time has elapsed, and they have now become a young adult or adult. Information about these sentences and associated policies can be found in section 8.

¹⁵ [Osborn, Booth & Reilly \(2013\) UKSC 61](#)

¹⁶ The term "prisoner" is currently used in the frameworks and policy. The wording mentioned in paragraphs 4.4 – 4.6 will be revised when they are next reviewed to reflect more sensitive wording.

5 Advice for panels

5.1 **The starting point is that panels should approach the test for release in exactly the same way as any other case. Public protection must remain the over-riding concern.** Panels are reminded that:

- **Children are treated differently from adults.** This is recognised in both domestic and international law.
- In all cases concerning children, the **child's best interests** must be a **consideration**.
- As set out in section four, **Parole Board policy is to give children an oral hearing:** All applicants before the Board who are under 18 when the referral is made must be given an oral hearing if they cannot be released on the papers.
- As in all cases, a panel will only be able to consider **making a recommendation for open conditions** if invited to do so by the Secretary of State. It should be noted that there are no open conditions available for children and only limited open prisons that accept young adults. This should not affect a Panel's decision: provision is a matter for the Secretary of State. However, as in all cases, if the release test is met, then it will not be necessary to consider open conditions.
- It will be in the interests of the child to effect release or re-release under suitable arrangements as soon as feasible. **A child should spend the shortest appropriate period of time in custody.** This accords with the requirements of Article 37 of the UN Convention on the Rights of the Child.

5.2 Panels should keep the above principles in mind when dealing with parole reviews for children both from a procedural perspective and when assessing risk.

Member Case Assessment (MCA)

5.3 Every case referred to the Board is required to go through the MCA assessment process. The MCA assessment process ensures that each case, at the earliest opportunity (the point of referral), is considered by an accredited MCA member who determines whether the case can be concluded on the papers or sets out additional steps that are needed for the matter to be determined fairly and in a timely manner, including the staging of an oral hearing.

5.4 The *MCA Guidance* should be followed in the usual way, subject to the additional considerations set out in this guidance and the specific policies for children.

5.5 The following key considerations may be of particular relevance when reviewing child cases. This is not an exhaustive set of considerations and some or all may or may not be relevant for the case being reviewed.

Key ConsiderationsChildhood Experience

- 5.6 As well as neurological and other physiological developments (with or without innate impairments and brain traumas), the rate and level of maturity is influenced by life experiences and other individual characteristics. Some life occurrences can be positive and experienced as constructive while others can be negative in the short or long-term.
- 5.7 In particular, maturation can be harmed or hindered by adverse childhood experiences (ACEs).
- 5.8 Given the complexity of child and adolescent development, significant incidents or periods of abuse and neglect or other traumatic experiences can impact the brain's functioning with concomitant damage to identity, reasoning, emotional and other psychological processes.
- 5.9 ACEs can be characterised as verbal, physical or sexual abuse and as emotional or physical neglect. None of these categories need be mutually exclusive. Adverse experiences can also be compounded or triggered by parental separation, mental illness, domestic abuse, and drug/alcohol abuse in the home. Incarceration for a child can be classed an ACE.
- 5.10 Children with histories of trauma and ACEs may find it more difficult to form attachments to others, including those trying to assist them. What has happened to them may be reflected over a sustained period in their behaviour and how they function generally in life.
- 5.11 There is an increased focus on making custodial environments more trauma-informed with increased acknowledgement in assessments and interventions of the impact of ACEs. Additional information on ACE which may be useful can be found in Annex B of the *Young Adults Guidance*.
- 5.12 **When considering release plans it is important for panels to consider how ACE continues to impact on the life of the child and how this relates to the assessment of risk.**

Location of the child

- 5.13 Children who were initially placed in Secure Training Centres and Secure Children's Homes will generally remain there if they are under 19 until a parole review is completed. It is likely that a transfer will be put on hold until the parole review has concluded.
- 5.14 However, occasionally, the child may be transferred to a Young Offender Institution (YOI) shortly before a parole review. Where this happens, it may be necessary for the **MCA panel to direct reports from the previous establishment** so that a full picture of progress since sentence can be gained.

- 5.15 **All steps should be taken to ensure that reviews are completed prior to transfer where possible to avoid delays and children being exposed to YOIs unnecessarily.**
- 5.16 If the child is due to transfer from the oversight of a Youth Offending Team (YOT) to the jurisdiction of the probation service, **the MCA panel may direct the current YOT to identify the allocated Community Offender Manager (COM) and to provide details of arrangements for the handover.** If the probation officer would be responsible for managing the individual on licence, then **they should be directed to provide reports and attend the hearing as well as the YOT representative.**
- 5.17 Panels are reminded that this guidance applies, and should be the starting point, in respect of anyone who is under 18 at the point of referral, but the *Young Adults Guidance* should *additionally* be considered where a child turns 18 during the course of the review.

Other considerations

- 5.18 Children are still **maturing** and there is potential for meaningful and long-term change at this stage. This will often be reflected in the work and interventions that the child has undertaken. Equally, a period of change whilst in custody may mean problems or dangers apparent at the time of the offence may no longer be present. Generally, the key points are:
- It is well established that the brain is developing particularly quickly under the age of 18 and this development continues at pace until typically mid 20s;
 - The parts that are changing are related to decision making, risk taking and problem solving so are highly relevant to risk;
 - A child's risk has the potential to reduce at a significantly faster pace than adults, and may also be reduced by virtue of developing skills and maturation which is significantly different from adults.
- 5.19 **Panels should bear in mind causative factors and their likely permanence or transitory nature in the individual case during the maturation process and look for evidence related to the above three points.**
- 5.20 Panels may wish to gain a clearer understanding about other considerations, for example whether:
- there are any mental health concerns or identified mental disorders;
 - there are concerns around self-harm;
 - there are any communication needs, for example where the child presents as neurodiverse; or there are speech considerations, for example expressive, receptive or motor speech language difficulties, speech sound disorders etc. Panels should check if the child has a **communication passport**, and can seek tips from professionals who work with the child as to their communication and learning style/needs;

- there are challenges in terms of forming meaningful relationships;
- there is history of traumatic brain injury (TBI);
- the child comes from a minoritised community.

Resettlement

Care leavers and pathway plans

5.21 Care leavers are young people aged 16-25 years old who have been in care at some point since they were 14-years old and were in care (or prison) on or after their sixteenth birthday. These young people are statutorily entitled to ongoing help and support from the local authority after they leave custody. This may include: appointment of a social worker/personal advisor and an assessment of needs, the provision of a support plan and practical support with education, employment, health and well-being, finances and housing. **The parole dossier should identify if the child is a care leaver.**

5.22 The following are entitled to provision of a pathway plan:

- Eligible children: 16 and 17 year olds (still looked after);
- Relevant children: 16 and 17 year olds who have previously been in care (no longer looked after);

Whilst no longer children, the following are also entitled to provision of a pathway plan:

- Former relevant children up to their 21st birthday;
- Former relevant children aged under 25 who are pursuing further education or training;
- From 1 April 2018, former relevant children aged over 21 but under the age of 25 who have requested it. This extension of the right to a personal adviser and pathway plan is the subject of statutory guidance produced by the government in February 2018.

5.23 **For care leavers coming before the Parole Board, there should be a pathway plan which addresses accommodation, life skills, education and training, employment, specific support needs, and financial support.**

5.24 A panel will wish to direct a pathway plan be submitted for an eligible child (if not already provided) and to explore its details as part of assessing risk management, exploring release plans, and reviewing the care and support the child will receive in the community. Producing a pathway plan is the responsibility of the allocated social worker.

5.25 The pathway plan must 'involve a measured evidence-based analysis of the care leaver's continuing need for care, accommodation and support'. This should cover the advice, assistance and support that social services will be providing to assist with the transition to independence, and/or to help with education or training, and a personal adviser who will provide

advice and support for the child and co-ordinate services linking in with other agencies.

- 5.26 If the child has been the victim of human trafficking or is an unaccompanied asylum seeker it must also spell out the child's additional needs.
- 5.27 The plan for former relevant children returning to education or training can be less detailed as long as it covers issues relating to meeting education or training goals.
- 5.28 Additional information on care leavers which may be useful can be found in Annex E of the *Young Adults Guidance*.
- 5.29 Children aged under 16 or who are 16 and 17 but are not 'care leavers' may be designated 'children in need' under s17 of the Children Act 1989¹⁷ and entitled to support and accommodation from social services (see paragraph 3.20 and 3.21). They will require a **social care plan** from their local authority. **This should be directed if not already provided.**

Accommodation

- 5.30 A fully developed release plan should include accommodation arrangements which will outline the structures in place to ensure a child is not released from prison as homeless.
- 5.31 When exploring release plans, a panel will wish to enquire whether the child might return to the family home or live elsewhere, whether the planned accommodation is suitable and secure, and how rent or other contributions will be met.
- 5.32 Children who require suitable accommodation for release will be entitled to an assessment for this by the local children's services under the Children Act 1989; in almost all cases they will be entitled to funded accommodation if released before their 18th birthday.
- 5.33 All 16 and 17-year olds must be accepted as being in priority need if they have spent at least 13 weeks in care over the age of 14, at least one day of which must have been when they were over 16.
- 5.34 **Children cannot be placed into Approved Premises.**
- 5.35 Children's services **have a duty to cooperate** with youth justice services where children are managed under MAPPA which is underpinned by statutory guidance.
- 5.36 The local authority (Social Services) has a duty to provide accommodation under Section 20 of the 1989 Act. Section 17 of the 1989 Act places a duty on local authorities to safeguard the welfare of children in need in

¹⁷ In Wales the requirement is provided for by the Social Services and Well-being (Wales) Act 2014 (see paragraph 3.28)

their area, which can extend to providing accommodation. The definition of a child in need includes a child who is homeless.

- 5.37 If accommodation needs cannot be met by a local authority (Social Services) then the Local Housing Authority (LHA) has responsibilities to assist with either housing advice or accommodation.
- 5.38 The Homelessness Reduction Act 2017 places a duty on LHAs to intervene at an early stage to prevent homelessness arising. This duty extends to those being released from custody. LHAs are required to provide advice, make an assessment, provide planning and prevention proposals; but they do not guarantee to provide accommodation for over 18s (which may be critical for children turning 18 during the parole review).
- 5.39 The Act places a duty on HMPPS to refer potentially homeless children to the LHA when they are at risk of becoming homeless within 56 days.
- 5.40 Children at risk of being homeless and who must be referred for advice and assistance include those who are:
- Sofa surfing
 - Sleeping rough
 - Living in a squat
 - Of no fixed abode
 - Living in transient or short-term accommodation
- 5.41 **The Housing (Wales) Act 2014** introduced a fundamental reform to homelessness legislation. The new system is designed to help everyone at risk rather than just those in priority groups. The priority need category is still in place for 16 and 17-year-old young people.
- 5.42 **It should be noted that support under the Children Act 1989 should take precedence over support for children under the various Housing Acts.**
- 5.43 Additional information on homelessness which may be useful can be found in Annex F of the *Young Adults Guidance*.

Legal representation

- 5.44 It is essential to encourage the child to obtain legal representation at the earliest opportunity. If representation appears not to have been obtained, the MCA panel should be proactive. **Directions can explain that it is in the child's best interests to be represented and that representation may be available through legal aid.**
- 5.45 The YOT/YJS or holding establishment may be able to assist and support the child in obtaining legal representation.
- 5.46 There may also be a family member, Guardian, or other Appropriate Adult who can support the child and seek to appoint and instruct a qualified legal representative on their behalf.

- 5.47 Additionally, with the agreement of the child, the MCA panel may request the Parole Board secretariat (through the case manager) contact the Association of Prison Lawyers to make arrangements for a prison law firm to contact the child. If ineligible for legal aid, there may be possible options for *pro bono* representation.
- 5.48 The child may appear to resist this support, but efforts should be made by those working closely with the child to encourage them to accept legal representation which ultimately is in their best interest. Understanding why the child is resisting the support will be key. These discussions may highlight possible mental capacity considerations.
- 5.49 **A short adjournment of a minimum period of 14 days is recommended to allow a legally qualified representative to be appointed and representations submitted.**
- 5.50 Additional information about legal representatives which may be useful can be found in the *Representation Guidance*.

The benefits of an oral hearing

- 5.51 If release on the papers is not possible, then oral evidence will be necessary for child cases in order to reliably assess risk and progress, to ensure suitably detailed plans are in place and are operable, and to hear the child's views.
- 5.52 An oral hearing for a child is as likely to explore agencies' efforts to address needs and assess progress whilst in custody as it is to focus on readiness for release or transfer. Staging such a hearing can advance these benefits:
- professionals reviewing the case thoroughly to provide current risk assessments and plans for care and support for release;
 - preparatory interaction between professionals and the child to better identify needs and relevant interventions or tailored plans;
 - the child engaging actively and meaningfully in their review, feeling supported rather than ignored or forgotten in the system and experiencing more control over life events;
 - opportunity to counteract some of the bias or perceived bias that children, particularly from minority backgrounds, can experience;
 - involvement of a suitably qualified and experienced lawyer to advise and represent the child.
 - opportunity for a child with learning or behavioural challenges (possibly as yet not formally diagnosed) to express views and have needs recognised in ways not possible when submitting representations;
 - providing suitable context for appreciating wider circumstances and the nuanced task of judging and encouraging desistance at this significant stage in a child's life;
 - support for the child to be in a better position for any future review.

Directing to oral hearing

- 5.53 Where release or re-release cannot be made on the papers, then the case must be directed to an oral hearing. See the policy set out in section 4.
- 5.54 When directing an oral hearing, the MCA panel might seek advice from a specialist member and direct a psychologist or psychiatrist member (ideally one with expertise with children) to sit on the panel. This will be particularly important if there are indications or concerns about a mental disorder.
- 5.55 MCA panels should be aware that support and interventions provided in YOT/YJSs are generally more diverse and intensive than that of the Probation Service. This difference may be useful to consider when directing reports and witnesses.
- 5.56 The social worker can often be a lynchpin in the resettlement plan as they have access to supported accommodation and other services. They may have also known the child for an extended period and can offer useful insights, particularly about the support needed to help the child move on. The MCA panel may wish to direct that the social worker attends as a witness and provides a care plan and/or pathway plan. The name of the social worker is often included in the risk management plan in AssetPlus.¹⁸
- 5.57 **If it is not clear whether the child has social care status, this can be clarified at MCA stage by directing the YOT/YJS or COM to make enquiries.**
- 5.58 When determining oral hearing logistics there should be a presumption of a face-to-face hearing for children. This will most often facilitate better engagement with the child as the panel will be in the room and will seem more real. Gestures and body language may put the child more at ease rather than floating faces on a screen. The panel may also more swiftly notice if the child becomes distressed or other concerns arise and can more easily and swiftly initiate breaks or other interventions.
- 5.59 A hybrid arrangement may support better witness availability where some could attend virtually and some in person. This may also help by not overwhelming the child with too many people in the room.
- 5.60 Seeking advice from the child's care team or representative about the most suitable arrangement for the hearing will be beneficial. In some instances, the child may prefer a remote hearing.
- 5.61 It is likely that the **hearing will take longer**, particularly as the best practice advice on questioning vulnerable prisoners (see paragraph 5.66) should be followed, and so these cases will usually fall into tier three or four for listing purposes.

¹⁸ [AssetPlus: assessment and planning in the youth justice system \(similar to OASys\)](#)

- 5.62 **The panel should be mindful of any anonymity order that may be in place and take precautions against inadvertent disclosure. This will be critical if there are victims engaged in the parole review or the case is high profile/noteworthy.**

The oral hearing

- 5.63 **Panel chairs must have completed the mandatory training on questioning vulnerable prisoners (QVP) before chairing a child case.**

- 5.64 Children are likely to find the oral hearing process particularly intimidating. However, there are steps that the panel chair can take to try to put the child at ease and to encourage their effective participation in the hearing. These include:

- taking account of the child's specific needs and circumstances and ensuring that the hearing is run in a way that enables the child to take as full a part as possible;
- seeking confirmation that someone has talked to the child about what will happen, who will be in the room etc and what to expect. This will usually be the child's representative;
- making enquiries whether there is a particular member of staff that the child finds supportive and inviting them to attend as an observer. They may also want a family member, guardian, or carer to attend as an observer;
- ensuring that the room is laid out in a way that means that the child can see everyone. If the hearing is to be remote, then ensuring the child has been given information in advance about how it will work on the day. The prison and/or the child's representative may want to set up a practice session ahead of the actual parole hearing;
- directing for a member of the care staff to invite the child and their representative to come and look at the hearing room in advance of the hearing and explain where everyone will sit and the practicalities of the process;
- if victims¹⁹ are attending to read out their victim personal statement (VPS) then the child should be made aware, and the process be explained. In most cases, the child will not be present for the reading of the VPS unless the victim has requested that they attend and the child (or Appropriate Adult on behalf of the child) has agreed.

- 5.65 On the day, it is recommended that the panel chair:

- allay any anxiety the child may have by taking the time ahead of the hearing to introduce themselves and confirm by what name they wish to be addressed: this needs to be handled without raising concerns about impartiality and fairness, so the representative and an establishment official must be present;

¹⁹ It is unlikely that a victim will be approved to observe a parole hearing of a child but if a request is received the panel chair should refer to the Observer Policy Guidance.

- explain gently to the child at the start of proceedings that they may hear things that they do not like or agree with, particularly if professionals are not recommending release, and that it is important that they know that the panel makes its own mind up based on all the evidence, including theirs, and that their representative can challenge anything;
- consider carefully the impact on the child of evidence disclosed on the day and responding thoughtfully if this happens. The child should know who they can talk to if anything that is discussed causes them distress. Any distress in the hearing would also need to be sensitively handled and the hearing paused if necessary;
- plan breaks during the hearing, as is best practice;
- allow the child to move around during the hearing, have a snack etc;
- plan questioning of the child in advance using the approach advocated in the questioning vulnerable prisoners mandatory training. Checking at regular intervals that the child understands what is happening, slowing the pace as necessary and using good communication and questioning techniques, as outlined below;
- if the child is struggling to give their evidence, taking a break, seeing if they would like their legal representative to start the questioning and considering asking the witnesses to leave the room (if they do not need to hear the evidence).

Questioning children

- 5.66 The panel will need to have a good understanding of the child's communication skills and the dynamic that develops between the child and the adults in the room. Panels are reminded of Professor Michael Lamb's lecture which features in the QVP training.
- 5.67 The panel will need to draw on the QVP training and use the skills acquired to ensure the best approach is taken when questioning the child. Adopting the twenty principles of questioning vulnerable people and children will greatly assist the preparation for the oral hearing:

Principles for Preparation

1. Comply with the Ground Rules Hearing²⁰ (Directions Hearing)
2. Identify key issues
3. Draft questions in advance

Principles for Conduct

4. Do not exploit the opportunity to build rapport
5. Adopt an appropriate pace
6. Check your behaviour
7. Watch for signs of distress

Principles for Questioning

8. Signpost a new topic

²⁰ This is the equivalent of a Case Management Conference/Directions Hearing where the arrangements for the proceedings can be agreed. It may not be required in all cases.

9. Tell the vulnerable person or child that you are going to ask them questions
10. Think about the order in which you will take the evidence - chronologically or in a structured way
11. Avoid repetition
12. Avoid statements posed as questions
13. Use places, names, objects and subjects – avoid pronouns
14. Avoid 'do you remember' (DYR) questions
15. Take special care when asking about telling someone else
16. Exercise care when asking about duration, weight, height, age and sensory impact
17. Avoid 'Why' questions
18. No 'tag' or leading questions
19. No compound questions
20. Ask concise/direct questions

5.68 More information about each of the twenty principles can be read here:

[*The 20 Principles of Questioning A Guide to the Cross-Examination of Vulnerable People and Children*](#)

5.69 When questioning children, panels should be mindful that children, particularly those with experience of trauma, may not be able to process information if questions are not presented plainly and clearly, particularly if this involves recall of painful or unhappy events. Some of the following issues are complex and will need careful planning to draw out the best responses from the child:

- responses to situations, consequential thinking and problem solving, impulsivity, anger management, consistency in patterns of behaviour, evidence of having resisted impulsivity or aggression, and how far stop-and-think practices have been successfully used;
- attitudes about societal matters, victim awareness, self-responsibility, compliance with rules and requirements, times of conforming or responding positively to opportunities or engaging with certain people;
- social context, influence of friends, time spent with different social groupings, evidence of leading or following, and how planned or purposeful behaviour has been;
- how children see themselves; has there been a shift to a more pro-social identity, wellbeing and self-harm, situations they find challenging, levels of emotional management, experience of difficult feelings or bullying, and progress in better coping;
- experience of friendships and family relationships, dealing with adverse or damaging circumstances, opportunities for intimate association, and evidence of maintaining healthy and stable relationships;
- engagement with education and training, opportunities for coaching or counselling, reasons for any disengagement from study, development of cognitive abilities, possible learning difficulties, involvement with plans to address needs and deficits, and motivation to progress;
- levels of organisation, experience in managing life problems, ability to manage finances, and impulsiveness in spending money or building debts;

- exploration of any suggested brain injuries, possible problems with attention and concentration, difficulties with memory, temper outbursts, aggressive behaviour, and need for diagnoses or treatment.

Adjourning

- 5.70 The timing of a hearing in respect of a child may need to be considered carefully. The usual considerations that would apply when considering an adjournment or a deferral of an oral hearing may need to be adapted to bear in mind the best interests principle. Practical considerations such as the timing of offending behaviour work, transfers to the adult estate or the reduction in support from social services, are likely to be affected by the timing of any hearing.
- 5.71 For example, a hearing may need to be expedited to avoid undesirable consequences that may result if the hearing is not heard by a certain point. This may be the case where a child might lose the opportunity to be released with long term support from social services if the hearing takes place after they turn 18. Expedition may also be appropriate where a child is on the cusp of transfer to the young adult estate which may have a detrimental impact on their welfare and ability to prepare for release.
- 5.72 In some cases, it may be appropriate to adjourn a hearing on a similar ground where a child's risk cannot be properly assessed due to a recent transfer within the youth estate or due to the child being part way through a programme of offending behaviour work. It should be possible for those delivering the work to identify a point where they would be in a better position to provide a more informed assessment of progress and risk, if they are unable to do so at the point where the dossier is disclosed.
- 5.73 Equally, given the strong duties owed by local authorities towards children who require accommodation, an adjournment to firm up funding for accommodation, so that the full resettlement package can be considered, may be reasonable.
- 5.74 Before adjourning, panels may need to consider directing relevant witnesses to assist with information as to whether an adjournment would be appropriate in terms of the impact on the child.
- 5.75 In drafting adjournment notices, panels must be mindful of the need to clearly explain to the child and help them to understand what has taken place, why the decision about their release cannot yet be made and what that will mean for them. Consideration must be given to the impact on the child and the anxiety that may cause.

Issuing the decision

- 5.76 As children in particular can find the wait for a decision difficult, it is good practice to issue the panel's decision as soon as possible. This is general Parole Board policy but has special importance in cases involving children.

- 5.77 In drafting reasons, panels should again be mindful of the need for their decision and reasoning to be understood by the child. The panel chair may wish to consider whether producing an accessible decision may be helpful. The panel chair could write a simplified summary, an *Easy Read*²¹ style version, or another format that may assist. Those working most closely with the child may be able to advise on the most suitable format.

6 Risk management and interventions

Understanding children and risk

- 6.1 Very few children receive parole eligible sentences and even fewer will be aged 18 or under when they reach their tariff date or are recalled. Therefore, it will be quite rare for panels to be asked to assess the risk posed by a child. However, despite being small in number, this group of children, by definition, will have either committed an offence of murder, or committed an offence that has caused serious harm and at the point of sentence were judged to be a significant risk of committing further serious offences.
- 6.2 These children frequently have disturbed backgrounds and have experienced extreme developmental disadvantage. Consequently, this group poses a unique challenge to professionals working with them and panels who have to assess the risk they pose after a period of time in custody.
- 6.3 It will be helpful for panels to be aware of the nature of adolescence. Adolescence is typically viewed as the transitional stage between childhood and adulthood. Adolescence usually takes place during the teenage years, but the changes that characterise this developmental stage can begin earlier, during the preteen years (ages 9-12), and some children do not reach maturity and achieve independence until their early twenties.
- 6.4 When children are going through adolescence, they experience a range of biological, physical, intellectual, psychological, social and emotional changes. These changes can be rapid at times and can be distressing and confusing for many children. However, the changes that take place are essential to prepare children for adulthood. As children make this important transition they are striving for independence, and a self-identity separate from the one they share with their family.
- 6.5 When children are going through adolescence, they typically display a range of behaviours that adults around them may view as difficult and challenging. They can show negative attitudes towards many things that previously they felt quite positive towards, for example their relatives, teachers, and social activities such as sports and hobbies. They often demonstrate active and passive resistance to what appear to be quite reasonable requests.

²¹ [Change – Easy Read resources](#)

- 6.6 They will often engage in deceptive behaviour and lying. This is often done as a way to try and gain more freedom, and or, in an attempt to evade being caught for wrongdoing. A behaviour that causes a great deal of concern for the parents and carers of children is that peers become much more influential than adults.
- 6.7 Children in this stage of development often engage in risk taking behaviour and this frequently includes experimentation with drugs, alcohol, their self-expression and sexual-identity. Children going through this transitional stage of development often feel desperate to fit in, and this becomes incredibly important to them. The advent of cognitive neuroscience and functional neuro imaging has brought opportunities to study both the neurobiology underpinning these processes as well as the drastic changes that take place in the brain throughout adolescence (Ernst, Pine, Hardin, 2008).²²
- 6.8 As children progress through adolescence they all have an increasing number of important choices to make. Research suggests that when making these choices adolescents are influenced by their cognitive and psychosocial immaturity (Scott & Grisso, 1997).²³ For example, when making choices, they tend to focus on immediate gratification rather than longer-term consequences of their actions. They are more likely to focus on their own needs and wants, and they fail to consider the perspective of other people. Children often lack self-reflection, and when asked why they did something they are frequently unable to explain their motives. They will also sometimes go on to repeat the same mistake again. It is also worth remembering that by definition, children lack experience to guide their choices.
- 6.9 This background understanding is important because children who commit offences, even those who commit very serious offences, are subject to the same developmental processes as those who remain offence free. Children who commit offences demonstrate the same cognitive and social immaturity as other children so, whilst children who commit offences may be seen as impulsive, lacking in perspective taking skills/empathy and having no insight, these are just labels for the features of very typical child behaviour.
- 6.10 Panels should remain aware of this developmental context when thinking about the child's offending behaviour, their behaviour in custody and also their post release behaviour in the case of recalls.
- 6.11 Child offending frequently fits into two patterns, 'adolescent limited' where offending decreases and then stops in late adolescence, and 'life course persistent' where offending continues and can sometimes escalate in frequency and severity as the child enters adulthood (Moffitt et al, 2001).²⁴

²² Ernst, M., Pine, D.S. & Hardin, M. (2008). Triadic model of the neurobiology of motivated behaviour in adolescence. *Psychological Medicine*, 36(3), 299–312.

²³ Scott, E. S., & Grisso, T. (1997). The evolution of adolescence: a developmental perspective on juvenile justice reform. *Journal of Criminal Law & Criminology*, 88(1), 137.

²⁴ Moffitt, T., Caspi, A., Rutter, M. & Silva, P. (2001). *Sex Differences in Antisocial Behaviour*:

- 6.12 Although it is very difficult to differentiate between the children whose offending is 'adolescent limited' versus those who will continue to offend into adulthood, it is worth noting that many children who commit criminal offences do simply 'grow-out' of offending through the normal process of maturation (Moffitt, 2003).²⁵
- 6.13 Children who commit offences are a heterogeneous group with a diverse range of needs, who by definition, are going through a process of considerable change. These children are not 'little adults'; they are better described as 'moving targets' (Borum, Bartel, & Forth, 2006).²⁶ Therefore, adult risk assessment models and procedures are not appropriate for them. The challenges of assessing the risk of reoffending posed by these children are immense, and as a starting point, they should only be assessed using age-appropriate risk assessment tools that allow for the appropriate consideration of developmental factors.
- 6.14 Risk is dynamic (subject to change), contextual (highly dependent on circumstances) and continuous (varying along a continuum of probability). Therefore, any statements made about the risk a child demonstrates should express the degree and nature of the risk in a given set of circumstances. Professionals should take the developmental stage, life experiences and maturity of the child into account when evaluating the applicability of specific tools to an individual.
- 6.15 Only suitably qualified professionals should carry out risk assessments with children. This should include having: specific training in child and adolescent development and youth offending; relevant practical experience of working with this particular group, and specific training in any risk assessment tools they plan to use.²⁷ If panels have any concerns about the suitability of the professional concerned to present risk evidence to them, they should not be afraid to ask for confirmation of the above.

Risk Assessment tools for children

- 6.16 The ultimate goal of reaching an understanding or formulation of risk is to prevent or reduce the impact of further offending. The main tools that are used to help professionals identify those that may go on to commit further offences and potential treatment interventions are set out below:

Risk of reoffending

- 6.17 **AssetPlus** is the Youth Justice Board's (YJB) assessment and interventions planning framework and is based on a desistance-centred approach to youth justice, which aims to reduce offending behaviour.

Conduct Disorder, Delinquency, and Violence in the Dunedin Longitudinal Study. Cambridge University Press.

²⁵ Moffitt, T.E. (2003). *Life-course-persistent and adolescence-limited antisocial behavior: A 10-year research review and a research agenda*. In Benjamin B., Moffitt, T.E. & Caspi, A. (eds) *Causes of conduct disorder and juvenile delinquency*, pp. 49-75 New York: Guilford Press.

²⁶ Borum, R., Bartel, P., & Forth, A. (2006). *SAVRY- Structured Assessment of Violence Risk in Youth. Professional Manual. Psychological Assessment Resources Inc: Florida.*

²⁷ or be supervised by someone who is suitably qualified to use the tool.

Desistance theory emphasises an approach that encourages a child to stop offending, rather than focusing on the factors that led a child to start offending in the first place. This desistance-centred approach marks a shift from the "risk" paradigm, which focuses primarily on understanding what causes a child to offend. AssetPlus provides a holistic approach through an integrated assessment and planning process. The rationale document describes five foundations for the new assessment framework:

- 1) understanding children's behaviour;
- 2) using the concept of risk;
- 3) identifying strengths;
- 4) desistance and process of change;
- 5) involvement of children and parents.

Violent offending

- 6.18 **Structured Assessment of Violence Risk in Youth (SAVRY):** similar to guided assessment tools such as the HCR20, it focuses specifically on risk of violence by children aged 12-18.

Sexual offending

- 6.19 **Estimate of Risk of Adolescent Sexual Offence Recidivism (ERASOR):** a structured assessment tool to identify risk and responsivity factors in male children aged 12-18 who have been convicted of a sexual offence.

- 6.20 **Assessment Intervention Moving on (AIM)²⁸** – is used when a child is alleged to have caused sexual harm. The AIM process is used to determine the level of risk they pose and what might be the most useful intervention to help them, where possible, to move on. AIM has four checklists which help to put sexual behaviours in perspective and to identify those that need short interventions and those which require further assessment. The four checklists are:

- Children under 12 years old
- Children with learning disabilities
- Adolescents
- Adolescents with learning disabilities

NB: The OASys Sexual Reoffending Predictor (OSP) which replaced RM2000 cannot be used for anyone under 18.

Maturity

- 6.21 **HMPPS Maturity Screening Tool** – designed to establish the likely demand for services and interventions which assist children to mature. The actual tool is not generally applied to under 18s but may assist practitioners as the child approaches adulthood.

²⁸ [Assessment Intervention Moving on](#)

Mental health

- 6.22 **The Screening Interview for Adolescents (SIFA)** and the **Screening Questionnaire Interview for Adolescents (SQUIFA)** are questions relating to a child's mental health within AssetPlus which may identify where mental health professionals may undertake more detailed assessments if required.
- 6.23 Further information about the above which may be useful can be found in the annexes to the *Young Adult Guidance*.

Interventions for children

- 6.24 Although the Parole Board is not involved with sentence planning, it is beneficial for panels to have an understanding of the interventions available for children as this can assist in their risk assessment and decision-making.
- 6.25 The interventions set out below are interventions suitable for children. These are not universally available and will vary across establishments.

A-Z Motivation to Change / Engage: Informed by the Good Lives model (Ward, 2002), HMPPS A>Z intervention helps children explore their lives to date. Children are encouraged to consider the choices they have made and where they see themselves in the future, including setting pro-social goals. The deficiencies in 'Goods' are identified during the collaborative treatment planning stage to ensure sessions are responsive to the needs of the child. A>Z aims to increase a child's motivation to engage in their sentence plan and therefore overcome barriers affecting their engagement, in particular, with structured accredited interventions that promote desistance from offending. A>Z is delivered on a one-to-one basis to ensure sensitive discussion remain relevant for the child.

Juvenile Enhanced Thinking Skills: HMPPS JETS intervention is specifically developed for use with children under 18 years in custody and aims to develop cognitive skills associated with desistance from offending. JETS treatment targets include interpersonal problem-solving, self-control, social perspective taking, moral reasoning, critical reasoning and cognitive style which are developed through a series of structured exercises. JETS is delivered on a group basis although can be developed for use on a one-to-one basis by a suitably trained practitioner. This is especially helpful if a child is unable to complete the group programme due to behavioural issues.

Feeling It: HMPPS Feeling It is an emotional management intervention developed specifically for children under 18 years in custody. Feeling It explores relevant aspects of emotions, including triggers, physiological changes, coping strategies and barriers to emotional management, with the aim of developing emotional awareness for children. This can be delivered on an individual or group basis, depending on the needs of the child.

Timewise: Suitably adapted for children in custody, HMPPS Timewise is designed to support children to spend their time more wisely in custody through the development of thinking, emotions and social skills to avoid engaging in violence. Timewise is underpinned by the General Aggression Model (Anderson et al., 1995) and is facilitated by suitably trained staff on a one-to-one basis with children displaying challenging behaviour in custody with the aim of improving the safety of others.

Aggression Replacement Training (ART):(Goldstein et al., 1998): ART has been developed to support children aged 10 - 17 who have exhibited aggressive behaviour towards others. ART is made up of three core areas of training: Social Skills Streaming, Anger Control and Moral Reasoning. ART is delivered on a group basis, with the treatment needs of each child being considered at the treatment planning stage. However, where a child has not completed the group work intervention this can be continued to conclusion with a suitably trained facilitator.

Life Minus Violence - Enhanced (LMV-E): (Ireland, 2014): LMV-E is designed to reduce the risk of repeat aggression and violence by targeting reactive (impulsive) and instrumental (goal-orientated) violence. LMV-E modules target various components contributing towards violence, including barriers to change, emotional awareness, information processing, consequences, interpersonal skills and relapse prevention. This can be delivered on either a group or an individual basis, depending on the needs of the child.

Starving the Anger Gremlin (STAG): (Colins-Donnelly, 2012): STAG is an anger management intervention which has been adapted for children aged under 18 years in custody with kind permission of the author. STAG helps children recognise why they get angry and the impact anger has on themselves and others. Through the development of self-control and the ability to express anger more positively, children's risk of offending in this area is reduced thereby promoting resilience against future offending. Based on Cognitive Behaviour Therapy, STAG can be delivered in a group or on a one-to-one basis by suitably trained facilitators.

Counselling Psychology Services: Counselling is known to promote desistance from offending amongst children. As such, YCS Psychology Services include Counselling Psychologists and those in training on placement to provide a high standard of ethical practice in this area with children in custody.

Family Therapy: Family Therapy is known to promote desistance from offending amongst children. As such, YCS Psychology Services include Family Therapists who are registered with the Association of Family Therapists to provide a high standard of ethical practice in this area with children in custody.

Secure Stairs

6.26 **SECURE STAIRS** is an integrated approach within Youth Custody and the main framework utilised throughout the estate.

- 6.27 It will be helpful for panels to understand the principles, particularly when considering how this applies to risk management/reduction.
- 6.28 The principles of the Framework for Integrated Care are integral to the Behaviour Management Support (BMS). The SECURE elements focus on establishing and maintaining effective foundations across youth custody, with the day-to-day staff members at the centre of the intervention. As such, the environment and the relationships within are considered the primary agents of change for the children, STAIRS outlines the key elements of a child's pathway whilst in custody and the multi-agency, co-ordinated care to create that change.
- 6.29 The BMS collaborates and is compliant with Building Bridges,²⁹ an overarching framework for developing positive relationships between staff and children across the youth custodial estate. It sets requirements for incentivising and promoting positive behaviour, minimising behaviour that can cause harm and working effectively with unacceptable behaviour. The framework includes addressing the needs of particularly complex children with high levels of harm, need and vulnerability.
- 6.30 Design, delivery, assurance and evaluation of the BMS is underpinned by a set of core principles of integrity, which are vital to achieve intended aims. Core principles of integrity are:
- Child First: All practice is tailored to the diverse needs of the population and of each and every child, with due consideration of all protected characteristics. There is a common understanding and commitment that every interaction matters and custody is deemed an opportunity for positive change.
 - Design: The model is underpinned by psychological theory to increase likelihood of effectiveness with ongoing ratification via the Youth Custody Assurance Board (YCAB).³⁰
 - Systemic Integration: YCS and partners share a strategic commitment to the core principles of integrity through prioritisation of integrated delivery. There is effective and collaborative resolution to emerging risks and issues.
 - Multi-agency: No single agency, department or party can fully meet a child's needs. Therefore, core + membership must be represented and involved at all levels and across all decisions, with the primary focus being to collaboratively improve outcomes for children.
 - Leadership & Management: There is multi-agency and cross-departmental commitment to and understanding of, the BMS. Senior leaders and managers understand their role in protecting the integrity

²⁹ [Building Bridges: A Positive Behaviour Framework for the Children and Young People Secure Estate \(2020\)](#)

³⁰ *It should be noted that all practice that is psychologically informed must be subject to a process of assurance to maintain theoretical integrity whilst also ensuring ethical practice. Without this, practice and therefore integrity can drift or even reverse and become less effective or even harmful. The YCAB provides a route of approval for psychologically informed interventions and activities with children in custody whether delivered internally or via external providers. The YCAB includes a panel of experts in psychological interventions and/or working with children, including those in custody. It therefore aims to provide assurance to all stakeholders that practice with children in custody is ethical and both cost and impact effective.*

of the BMS. Responsibility for the BMS as a whole, and the individual initiatives are allocated to appropriate individuals who are held accountable.

- Environmental ethos: All children, staff and managers understand and are committed to, the core aims of the BMS. The physical and social environment enables the community to thrive as individuals and as a whole. Widely communicated, everyone strives to achieve the expected standards of behaviour and encourage others to do so.
- Clinical Integrity: The entire BMS and the individual initiatives within are delivered in accordance with the underpinning theoretical rationale.
- Assurance: There is robust monitoring and assurance in place to prevent drift or reversal from intended aims thereby maintaining effective and ethical practice.
- Evaluation: The BMS and the individual initiatives within are subject to robust, ongoing multi-agency evaluation and review.

Support for Children

6.31 For advice or support, a child can speak to a member of staff, for example:

- the Resettlement Practitioner or residential unit staff;
- their Custody Support Plan (CuSP) Officer, who is the main point of contact for the child;
- a chaplain, social worker or teacher;
- a doctor, nurse or other health worker.

6.32 Chaplains provide support to everyone, whatever their faith. A child can ask to speak to a chaplain of their own faith if they want.

6.33 Someone from the local YOT/YJS will stay in contact with the child while they are in custody. The child can get in touch with them as needed.

6.34 A child will be able to contact their family regularly and can arrange for them to visit them in custody. However, there may be cases where family contact is closely monitored or curtailed if there are concerns about the safety and welfare of the child.

6.35 Children can also speak to someone from an advocacy service, for example The Howard League for Penal Reform or the Prison Reform Trust.

7 Key agencies involved

Youth Offending Teams/Youth Justice Service

7.1 Youth Offending Teams (YOTs) were created by the Crime and Disorder Act 1998³¹ with the purpose of preventing offending by children. They are the key to successful intervention in the lives of children and young people who commit criminal offences and their families.

³¹ [Crime and Disorder Act 1998](#)

- 7.2 Local authorities are required to establish multi-disciplinary YOTs in order to fulfil their duty to provide youth justice services. In most areas these are now called the Youth Justice Services (YJS).
- 7.3 YOT/YJSs are multi-agency teams made up of representatives of the Police, the Probation Service, Social Services, Education, and the Health Service. They carry out a comprehensive assessment of children to find out the reasons for their offending behaviour and decide the level of risk of their reoffending. This enables YOT/YJS staff to identify suitable programmes to deal with the offending behaviour, with the aim of preventing further offending.
- 7.4 YOT/YJSs do a wide range of things to support children. For example, many operate restorative justice schemes, focused on repairing the harm caused, and all operate referral order panels, where members of the local community meet with individual children to work to reduce their risk of reoffending.
- 7.5 YJS staff are skilled at engaging with children and have an understanding of trauma informed practice and other evidence based approaches to working with children. They will also have a good network of other relevant professionals.
- 7.6 The characteristics of children under YOT/YJS supervision vary considerably, with some offending being transient and unlikely to cause harm to others. However, some children will have committed serious offences or are showing warning signs that they might. It is important that each child is assessed by YOT/YJSs, to judge the extent to which they pose a risk of harm to others in their family or the community.
- 7.7 **YOT/YJSs use AssetPlus to assess young people and make plans with them.**
- 7.8 Many YOT/YJSs now have substance misuse workers and housing officers in their teams to address specific difficulties faced by children, such as drug and alcohol problems and homelessness.
- 7.9 YOT/YJSs will be able to notify panels if/who the Appropriate Adult is for a child who is undergoing a parole review. In most cases, the Appropriate Adult will liaise with the instructed representative, who is likely to be a prison lawyer specialising in child cases.

Youth Custody Services Placement Team

- 7.10 Established in September 2017 as a distinct part of HMPPS, the Youth Custody Service (YCS) is responsible for the operational running of (public sector) sites across youth secure estate, for children between 10-17 in England and Wales. YCS is also responsible for commissioning of services and contractual management of private sector sites, as well as placing children and young people remanded or sentenced to custody.

- 7.11 The YCS is dedicated to working with a wide range of central and local government partners and other agencies to improve the life chances for children, bringing the child's voice into service design and learning from latest research and best practice. More information can be found on the YCS web pages.³²
- 7.12 When a child is remanded or sentenced to custody, the YCS Placement Team decides where they should be placed. The YCS Placement Team does not 'assess' children, rather it makes assessments about the most appropriate placement for a child using the information provided by the key stakeholders, including YOT/YJSs who complete the AssetPlus full stage and AssetPlus custody module. The YCS Placement Team will work with the YOT/YJSs to make sure the needs, risks and circumstances of each child have been taken into account and will make:
- A decision about the most appropriate placement after consideration of each child's individual needs and their YJS's placement recommendation, against a view of the available accommodation.
 - A placement with the aim of promoting the child's safety and ensuring decisions are made with the child's best interests as a primary consideration.
 - A placement in a timely manner using information received from a wide range of sources, with the aim of minimising the likelihood of unnecessary future movements.
- 7.13 The YCS will facilitate the sharing of key, up-to-date information electronically, between YOT/YJSs and the Secure Estate at the point of placement. Children will be placed into the most appropriate available establishment to meet their needs, which may not necessarily be the closest to their home area or court catchment, however, this will always be considered where availability allows.
- 7.14 This will be at one of the following:

Secure Children's Homes (SCHs): SCHs focus on attending to the physical, emotional and behavioural needs of the children they accommodate. They are run by local authority social services departments, overseen by central government. SCHs provide children with support tailored to their individual needs. To achieve this, they have a high ratio of staff to children who are generally experienced in working with children and are generally small facilities, ranging in size from six to 40 beds. SCHs are generally used to accommodate children aged 12 to 14, girls up to the age of 16, and 15 to 16-year-old boys who are assessed as vulnerable. There are currently 14 SCHs in England and Wales.

Secure Training Centres (STCs): STCs are purpose-built centres for children under 18. They are run by private operators under Government contracts, which set out detailed operational requirements. They tend to contain a higher staff to children ratio than YOIs but a smaller ratio of

³² [Youth Custody Services](#)

staff to children than in SCHs. Unlike SCHs, staff in STCs may not be specifically trained in working with children. There are currently three STCs in England and Wales.

- 7.15 Generally, those of a young age or who require high levels of support will be placed in either an STC or SCH.

Secure Schools: Secure Schools will be a small setting, providing high-quality education and healthcare delivered by a specialised workforce of teachers and youth workers. By prioritising intensive education, the Secure School will put the rehabilitation of children front and centre, helping to break the cycle of crime. The Secure School will be home to up to 49 children at any one time – both boys and girls - and every child will be enrolled in formal education or training and encouraged into further study or secure employment on release. Staff will be trained to offer one-to-one learning support and they will set challenging targets in core academic subjects such as English and Maths. Children will also be trained in workshops designed to give them the qualifications necessary to go straight into employment or further study on release, including barbering, design technology and catering. There is currently one Secure School in England and Wales.³³

Young Offender Institutions (YOIs) for under 18s: YOIs are facilities run by the Prison Service. They accommodate 15 – 17 year-olds. Prison service accommodation for 18 – 21 year-olds is also called a YOI. However, under 18 and over 18 establishments are now generally on completely separate sites. There are a number of specialist facilities within the youth estate, generally aimed at meeting the needs of long term sentenced children or those with resettlement needs. There are currently four YOIs for under 18s in England and Wales.

- 7.16 Boys between the ages of 15-17 (inclusive) can be considered for a placement in an under-18 YOI, particularly where they have previous custodial experience or where they will require transition to the adult estate at some point. In some cases, boys can be held in the youth estate until they are just under 19.
- 7.17 Girls who are not suitable for placement within an STC, SCH or Secure School can be placed onto the girl's unit provision within Wetherby YOI.
- 7.18 Welsh children will typically be placed into an establishment in Wales or with a Welsh provision unless operational constraints restrict the Placement Team from doing so. In North Wales it is likely that they will be placed in YOI Werrington. A [Welsh protocol](#) has been published that provides for further guidance on placing Welsh children in custody.
- 7.19 All children who turn 18 whilst detained will be considered for suitability to transfer into the adult or young adult estate in a planned and agreed way. More information about the move into the adult estate can be found in the *Young Adult Guidance*.

³³ Due to open in late 2024

The Youth Justice Board

- 7.20 The Youth Justice Board (YJB) is an executive non-departmental public body set up by the Crime and Disorder Act 1998. The YJB oversees the youth justice system in England and Wales. It works to prevent offending and reoffending by children (anyone under the age of 18), and to ensure that custody for them is safe, secure, and addresses the causes of their offending behaviour. The YJB promotes the voice of the child, receiving advice from its youth advisory panel comprising people who have experienced the youth justice system.
- 7.21 The YJB's key aim is for a youth justice system that sees children as children first, 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. The strategic objectives 2024-2027³⁴ of the YJB are to:
- Supporting improvement of youth justice services in local communities;
 - Focussing on addressing persistent racial disparities across the youth justice system; and
 - Influencing development of policy and practice to advance adoption of Child First throughout the youth justice system.

8 Sentences for children

- 8.1 **Whilst individuals serving the following sentences are unlikely to be children at the point at which they are referred to the Parole Board, panels should bear in mind the offending was carried out as a child and they were taken into custody as a child.**
- 8.2 A **Detention for Public Protection (DPP) sentence** is the equivalent of an Imprisonment for Public Protection (IPP) sentence but was for under 18s. DPPs were handed down if the individual was under 18 at the point of conviction and therefore will have been in a custodial setting as a child and progressed through the maturation process whilst in custody.
- 8.3 **Detention during His Majesty's Pleasure (DHMP)** is a mandatory life sentence and will be imposed when a child or young person is convicted of or pleads guilty to murder³⁵. Schedule 21 of the Sentencing Code states that the starting point for determining the minimum sentence where the offender is under 18 years of age is 12 years, as opposed to 15 years for those over the age of 18. Those sentenced to a DHMP are treated differently on account of their youth at the point of the commission of the offence (see, for example, judgments in *Quaye*³⁶ and *Smith*³⁷).

³⁴ [YJB Strategic Objectives 2024-2027](#)

³⁵ It should be noted that an individual sentenced to a DHMP is eligible to apply to the High Court for a review of their minimum term once the halfway point of their tariff is reached.

³⁶ [R\(Quaye\) v SSJ \[2024\] EWHC 211 \(Admin\)](#)

³⁷ [R \(Smith\) v Home Secretary \[2006\] 1 A.C. 159](#)

These cases confirm the special nature of the sentence which is unique and based on the: “*reduced responsibility and special needs of those committing murder as children or young persons*” and the “*humane principle that an offender deemed by statute to be not fully mature when committing his crime should not be punished as if he were. As he grows into maturity a more reliable judgment may be made, perhaps of what punishment he deserves and certainly of what period of detention will best promote his rehabilitation.*”

- 8.4 Other sentences include **detention for life**³⁸ or an **extended sentence of detention** which may be imposed if a child is convicted of a specified offence and the Crown Court considers that there is a significant risk of serious harm to members of the public from them committing further specified offences.
- 8.5 Some of the individuals serving the sentences outlined above will still be young adults, but the majority will now have reached the age of 25 plus. Research³⁹ suggests that these individuals are more likely to have had the biggest change during their time in prison in respect of maturation.
- 8.6 As such, Management Committee has determined that any case where the individual was sentenced as a child should be prioritised for both MCA and oral hearing, where one is directed.

Prioritisation Framework for Paper Reviews under the MCA Process

Individuals sentenced when under 18 years of age

The Parole Board will automatically prioritise, irrespective of the review status, the cases of individuals who were sentenced as a child. This includes Detention for Public Protection (DPP), Detention at His Majesty’s Pleasure (DHMP), Detention for Life (DfL) and Extended Determinate Sentence (for under 18). The paper review will be panelled once the case is ready for the MCA process, on the next available panel date.

Listing Prioritisation Framework for Oral Hearings

Individuals sentenced when under 18 years of age

The Parole Board will automatically prioritise, irrespective of the review status, the listing of individuals who were sentenced as a child. This includes Detention for Public Protection (DPP), Detention at His Majesty’s Pleasure (DHMP), Detention for Life (DfL) and Extended Determinate Sentence (for under 18). The hearing will be listed once the case is ready to list and will be listed according to the availability of the required The Prioritisation Framework for Paper Reviews under the MCA Process states:

- 8.7 As such, these cases will be prioritised for MCA and, where an oral hearing is directed, they will be prioritised for listing at the next bulk scheduling exercise.

³⁸ There is also Custody for Life for those sentenced for murder between the ages of 18 and 21 and are treated as young adults Young Adults Guidance.

³⁹ References to research and further information can be found in the Young Adults Guidance.