

CALL FOR INPUTS: OHCHR REPORT ON SYSTEMIC RACISM AGAINST AFRICANS AND PEOPLE OF AFRICAN DESCENT, ESPECIALLY BY LAW ENFORCEMENT AGENCIES

UNICEF UK YOUTH JUSTICE REPORT

Existing evidence suggests children who come into contact with the law are amongst the most vulnerable, marginalised and hidden groups within society and their rights are often not appropriately recognised and upheld. Against this backdrop, Unicef UK has recently produced a report:

‘A RIGHTS-BASED ANALYSIS OF YOUTH JUSTICE IN THE UNITED KINGDOM’

The report findings reveal that whilst much positive work exists which seeks to use, make sense of and apply international children’s rights standards, including the UNCRC, there remains significant areas (in policy and practice) of activity which do not meet the standards expected within international children’s rights standards.

A key area of examination contained within the report concerns the overrepresentation/ disproportionality of Black, Asian and Minority Ethnic (BAME)¹ children within the youth justice system.

The report provides further context, evidence and statistics relating to the key issues which are highlighted within this document. The full report, along with a summary and infographic document, can be accessed at:

[HTTPS://WWW.UNICEF.ORG.UK/YOUTH-JUSTICE-IN-THE-UK-A-RIGHTS-BASED-ANALYSIS/](https://www.unicef.org.uk/youth-justice-in-the-uk-a-rights-based-analysis/)

¹ The **Call for Inputs** relates specifically to Africans and people of African descent – because of data recording practices in the United Kingdom in respect of youth justice, it can be challenging obtaining disaggregated data pertaining to African children and children of African descent.

DISPROPORTIONALITY IN THE YOUTH JUSTICE SYSTEM: KEY ISSUES & EVIDENCE

ARREST, CAUTION OR SENTENCE

The latest England and Wales youth justice data for the year ending March 2019, reveals that Black children **were over four times more likely** than White children to be arrested. The same data also reveals that the proportion of Black children administered a caution or sentence **is almost three times higher** than the proportion of Black children in the 10-17 population.² Article 2 of the UNCRC 1989 makes clear that:

*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*³

Reflecting the UN standards in this area, Unicef UK's 'A Rights-Based Analysis of Youth Justice in the UK' report, in its Recommendation 32, states that the:

*The UK Government and Youth Justice Board should commission further research into BAME children's interaction with the youth justice system to better understand the reasons underpinning how specific youth justice processes and practices are disproportionately impacting upon this group of children. BAME children's views, their experiences and their understandings should be a central feature of this research (UNCRC 1989 Article 12).*⁴

² Youth Justice Board and Ministry of Justice (2020). *Youth Justice Statistics 2018/19, England and Wales*. London: Youth Justice Board and Ministry of Justice. See: <https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

³ UNCRC (1989). *Convention on the Rights of the Child, Article 12*. Geneva: Switzerland.

⁴ Unicef UK (2020) *A Rights-Based Analysis of Youth Justice in the United Kingdom*. London: Unicef UK. See: <https://www.unicef.org.uk/youth-justice-in-the-uk-a-rights-based-analysis/>

YOUTH DETENTION

The most recent annual statistics from the Youth Justice Board and Ministry of Justice for the year ending March 2019 for England and Wales reveals that **children from a Black background accounted for 28% of the youth custody population** (as compared to 15% a decade previously).⁵ Furthermore, as of January 2019, Black, Asian and Minority Ethnic (BAME) children made up **51 per cent** of the youth custody population.

BAME disproportionality in the youth justice system (and within youth detention) is a long-standing issue, with the UN Committee on the Rights of the Child highlighting in their 2016 Concluding Observations:

*The number of children in custody remains high, with disproportionate representation of ethnic minority children, children in care and children with psychosocial disabilities, and detention is not always applied as a measure of last resort.*⁶

Successively, the Committee recommended that the State Party:

*(d) Establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time and ensure that detention is not used discriminatorily against certain groups of children.*⁷

Reflecting the UN recommendations in this area, Unicef UK's 'A Rights-Based Analysis of Youth Justice in the UK' report in its Recommendation 31, states that the:

⁵ Youth Justice Board and Ministry of Justice (2020). *Youth Justice Statistics 2018/19, England and Wales*. London: Youth Justice Board and Ministry of Justice. See: <https://www.gov.uk/government/statistics/youth-justice-statistics-2018-to-2019>

⁶ UN Committee on the Rights of the Child (2016). *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*. CRC/C/GBR/CO/5. Geneva: UN.

⁷ Ibid

The UK Government, HM Prison and Probation Service and the Youth Justice Board should outline what steps are currently being taken to address the disproportionate representation of BAME children in youth custody.⁸

SCHOOL EXCLUSIONS

In 2016, in Paragraph 71, the UN Committee on the Rights of the Child in their ‘Concluding Observations of the United Kingdom of Great Britain and Northern Ireland’, expressed concern at the impact school exclusions were having on certain groups of children:

...the Committee is concerned that: (b) Among children subject to permanent or temporary school exclusions, there is a disproportionate number of boys, Roma, gypsy and traveller children, children of Caribbean descent...⁹

Successively, the Committee recommended that the State Party:

(a) Enhance its efforts to reduce the effects of the social background or disabilities of children on their achievement in school and to guarantee the right of all children to a truly inclusive education in all parts of the State party...¹⁰

It is therefore concerning that the most recent data available (2018/19) illustrates that specific ethnic groups of children are still being disproportionately impacted by school exclusions in England, with data for 2018/19 revealing that: Gypsy/Roma children had the highest rate of ‘permanent’ (0.39) exclusions in England, with Traveller of Irish Heritage children having the

⁸ Unicef UK (2020) *A Rights-Based Analysis of Youth Justice in the United Kingdom*. London: Unicef UK. See: <https://www.unicef.org.uk/youth-justice-in-the-uk-a-rights-based-analysis/>

⁹ UN Committee on the Rights of the Child (2016). *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*. CRC/C/GBR/CO/5. Geneva: UN.

¹⁰ Ibid.

second highest rate (0.27). Black Caribbean children the next highest (0.25), followed by White and Black Caribbean children (0.24).

The 'permanent exclusion' rate **for White and Black African children was 0.12**, by way of comparison, White British children had a 'permanent exclusion' rate of 0.10 in 2018/19.¹¹

Reflecting the UN recommendations in this area, Unicef UK's '*A Rights-Based Analysis of Youth Justice in the UK*' report, in its Recommendation 33, states that:

*The Department for Education should outline what measures are currently being taken to address the disproportionate impact that school exclusions are having on some of the most vulnerable children in society.*¹²

TASER AND SPIT-HOODS

Available evidence suggests that Tasers continue to be used on children in England and Wales by police officers¹³, whilst Children's Rights Alliance for England (CRAE) Freedom of Information (FOI) data for 2017/18 gathered from 29 police forces reveals that **51 per cent of children who had Taser used on them in England were from a Black, Asian and Minority Ethnic (BAME) background**.¹⁴ More specifically, CRAE data also reveals that for the January to October 2019 period, **74 per cent** of children in London who had a Taser used on them were from a BAME background.¹⁵

¹¹ Department for Education (2020). *Permanent and Fixed Period Exclusions in England: Academic Year 2018/19*. London: Department for Education. Available at: <https://explore-education-statistics.service.gov.uk/find-statistics/permanent-and-fixed-period-exclusions-in-england>

¹² Unicef UK (2020) *A Rights-Based Analysis of Youth Justice in the United Kingdom*. London: Unicef UK. See: <https://www.unicef.org.uk/youth-justice-in-the-uk-a-rights-based-analysis/>

¹³ Home Office (2019). *Official Statistics: Police use of force statistics, England and Wales: April 2018 to March 2019*. Retrieved from: <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2018-to-march-2019>

¹⁴ CRAE (2018). *State of Children's Rights in England. Policing and Criminal Justice*. See: <http://www.crae.org.uk/publications-resources/state-of-childrens-rights-2018/>

¹⁵ CRAE (2020). *Children's rights and policing: Tasers and children's rights*. See: <http://www.crae.org.uk/publications-resources/children%E2%80%99s-rights-and-policing-tasers-and-children%E2%80%99s-rights/>

CRAE FOI data has also identified the **disproportionate impact of spit-hood use on certain groups of children in England**, and strikingly within London, revealing that:

Across the whole period requested for 2017 and 2018, BAME children accounted for 34% of spit-hood use nationally and 72% of MPS use. This shows hugely disproportionate use of spit-hoods on BAME children given that they make up approximately 18% of the 10-17-year-old population.¹⁶

In 2016, in paragraph 39, the UN Committee on the Rights of the Child in their ‘Concluding Observations of the United Kingdom of Great Britain and Northern Ireland’, expressed concern about:

(a) The use by the police of Tasers and, in the case of Northern Ireland, attenuating energy projectiles against children in the four devolved administrations.¹⁷

Successively, the Committee urged the State party to:

(a) Prohibit the use on children of electrical discharge weapons, such as Tasers, attenuating energy projectiles (in Northern Ireland) and any other harmful devices and systematically collect and publish age-disaggregated data on their use in order to monitor the implementation of such prohibition.¹⁸

Additionally, in 2019, in its Concluding Observations on the Sixth Periodic Report of the United Kingdom and Great Britain and Northern Ireland, the UN Committee Against Torture (paragraph 28) stated in respect of Tasers:

¹⁶ CRAE (2020). *Children’s rights and policing: Spit-hoods and children’s rights*. London: Children’s Rights Alliance for England. See: <http://www.crae.org.uk/publications-resources/children%E2%80%99s-rights-and-policing-spit-hoods-and-children%E2%80%99s-rights/>

¹⁷ UN Committee on the Rights of the Child (2016). *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*. CRC/C/GBR/CO/5. Geneva: UN. Paragraph 39.

¹⁸ Ibid

... the Committee is concerned about the reported increase in their use, including on children and young people, and their disproportionate use against members of minority groups.¹⁹

The UNCRC 1989, in Article 37, also explicitly states that:

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.²⁰

Reflecting the UN recommendations in this area, Unicef UK's 'A Rights-Based Analysis of Youth Justice in the UK' report included the following recommendation in respect of Taser:

Unicef UK is concerned that tasers are increasingly being used by English police forces on children (and in certain police forces disproportionately on BAME children). Unicef UK recommends that the following actions be undertaken:

- 1. The UK Government should prohibit the use of tasers on children in England who are under 18 years of age.*
- 2. The Home Office should review the impact on children's rights presented by increasing numbers of police officers in England being equipped with a taser.*
- 3. The Home Office should assess the reasons for the disproportionate use of tasers on BAME children in England.²¹*

¹⁹ See:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GBR/6&Lang=en

²⁰ UNCRC (1989). *Convention on the Rights of the Child, Article 12*. Geneva: Switzerland.

²¹ Unicef UK (2020) *A Rights-Based Analysis of Youth Justice in the United Kingdom*. London: Unicef UK. See: <https://www.unicef.org.uk/youth-justice-in-the-uk-a-rights-based-analysis/>

In relation to the use of spit-hoods, the report recommends that the:

The UK Government 1. prohibit the use of spit-hoods on children in England who are under the age of 18 years old. 2. The Home Office assess the reasons for the disproportionate use of spit-hoods on BAME children in England.²²

Submission by **Aaron Brown, Youth Justice Specialist at Unicef UK.**

²² Ibid.