



What's wrong with remanding young adults to prison: voices and lessons learned

Howard League for Penal Reform

Key points

- Young adults aged 18-25 are a distinct group who are still maturing as their brains continue to develop. They are overrepresented in the prison population in England and Wales, and in particular in the remand population where they make up 20 per cent of the population compared to around eight per cent in the general population.
- The need for a distinct approach for young adults has been recognised in some parts of the criminal justice system. However, the focus tends to be on convicted young adults who are being or have been sentenced. More attention must be paid to young adults who are awaiting trial or sentencing.
- Young adults are subject to the provisions set out in the Bail Act 1976, which apply to all adults. The framework on bail and remand should be amended to align with the recently strengthened tests on remand for children. A child cannot be remanded to custody if it is not 'very likely' that they will receive a custodial sentence for the offence for which they appear before the court. Where a child has a history of breach or offending whilst on bail they cannot be remanded to custody unless the breach or offending is 'relevant in all the circumstances of the case' and is 'recent and significant'. There is a statutory duty on the court to consider a child's best interests and welfare. These provisions, which aim to ensure that remand to custody is a last resort, do not apply to young adults. Turning 18 should not be a cliff edge.
- The Crown Prosecution Service and judiciary should incorporate a greater recognition of maturity into relevant guidance to ensure that a distinct approach is taken to young adults from the outset.
- Young adults should not be remanded without a court report which considers the impact on them of being remanded. If a young adult is to be remanded, sufficient time should be given to explaining remand decisions in court and young adults should be provided with a copy of the reasons for remand in writing. Data on the reasons for remand decisions should be published and disaggregated by age, ethnicity, religion and gender.
- Remand is used disproportionately against Black, Brown and racially minoritised young adults. In June 2023, 26 per cent of remanded 18-20-year-olds and 18 per cent of remanded 21-25-year-olds were Black, compared to less than six per cent and five per cent respectively in the general population. Data on the number of people on remand should continue to be published and be disaggregated by age, ethnicity and religion.
- Custodial time limits should only be extended in exceptional circumstances. Consideration should be given to the impact of an extended period of time in custody on a young adult in light of their age and ongoing maturational development, before time limits are extended. Data on the length of time people are held on remand should be published and should be disaggregated by age, ethnicity, religion and gender.

- Young adults benefit from lawyers who specialise in working with that age group and understand their specific needs. More should be done to support and encourage all young adults at risk of remand to have specialist legal representation.
- Remanded young adults should have access to resettlement support in custody and more should be done to ensure the availability of good quality accommodation that meets young adults' needs.
- All prisons and courts should have a bail information service with bail information officers who are trained in and understand the specific needs of young adults.
- Young adults who are remanded should be allocated a probation officer and keyworker in prison.
- Young adults should have access to a meaningful daily regime, which includes education and employment, physical exercise and contact with family and friends. Unconvicted prisoners should have the number of visits they are legally entitled to.
- Young adults should be supported to submit complaints, including escalating them to the Prisons and Probation Ombudsman as needed, and complaints should be responded to in a timely manner, in accordance with the national complaints policy.
- Specialist mental health provision should be available to remanded young adults.
- More must be done to identify care-experienced remanded young adults, including increased training for staff in prison on leaving care rights. Every prison holding remanded young adults should have a leaving care co-ordinator.

Introduction

In Autumn 2022 the Howard League launched a project, supported by the Barrow Cadbury Trust, to better understand the experiences of remanded young adults. The project builds on previous work by the Howard League looking at the specific needs of young adults, including the role of maturity in the sentencing of young adults (Howard League, 2017), sentencing principles for young adults (Howard League, 2019a and b), and issues facing young adults in prison during Covid (Howard League, 2020).

The project follows on from an earlier scoping study about young adults on remand supported by the Barrow Cadbury Trust

(Allen, 2021). That study found that there are strong arguments for developing a strategy to make remand arrangements better reflect the developing maturity of young adults.

This briefing includes the experiences, voices and lessons to be learned from a group of remanded young adults aged 18-20 in a male Category B prison. It is informed by discussions with criminal justice professionals who work with remanded young adults in England and Wales and the Howard League's work representing individual young adults across the prison estate through its specialist legal advice service.

Context

Young adults: a distinct group

There is a substantial evidence base arguing that young adults aged 18-25 are a distinct group who are still maturing, psychologically and socially, as their brains continue to develop. Reaching adulthood is a process, not an event. The key markers of adulthood, such as independent living, employment, and establishing relationships, happen at different times for different young people.

In 2016 the Justice Committee called for a distinct strategy for young adults *"founded on the clear philosophy that the system should seek to acknowledge explicitly [young adults'] developmental status, focus on [their] strengths, build their resilience and recognise unapologetically the degree of overlap of their status as victims and offenders"* (Justice Committee, 2016). This was backed up in a further report in 2018 due to a *"disappointing response"* by the government to the 2016 recommendations which *"did not pay sufficient attention to the strength of the evidence for more significant change"* (Justice Committee, 2018).

In 2021, His Majesty's Inspectorate of Prisons (HMIP) published a thematic report on the outcomes for young adults in custody. The report concluded that, in general, the outcomes are poor for young adults when compared with those for older prisoners and that there was a lack of a coherent response at the national level. HMIP recommended that the government should develop and resource a national strategy to meet the needs of young adults

(HMIP, 2021).

The government committed to developing a national strategy for young adults (HMPPS, 2021). However, the Chief Inspector of Prisons reported recently *“little had been done at some prisons to understand young adults’ needs and make specific provision for them, and there was often slow progress to address disproportionate outcomes for this group”* (HMCIP 2023).

Sentenced and remanded young adults

The need for a distinct approach for young adults has been recognised in some parts of the criminal justice system. National guidance on the management of young adults by probation has been published and pre-sentence reports completed on 18-25-year-olds must include consideration of maturity (HMPPS, 2022). The expanded explanations in Sentencing Guidelines make provision for age and immaturity affecting a young adult’s responsibility for an offence and how a particular sentence may impact on them, and either or both considerations may justify a reduction in sentence (Sentencing Council, 2019). The Parole Board has published guidance for its members on factors to take into consideration when reviewing cases of young adults aged 18-21 (and older as required), including the consideration of maturity (Parole Board, 2021).

However, where there is a distinct approach taken, the focus is largely on young adults who are being sentenced or are sentenced. No equivalent measures have been put in place for young adults who are awaiting trial or sentencing, either in court or if remanded, in prison.

The legislative framework for bail and remand for children was recently amended to strengthen the tests the court must apply before a child can be remanded to custody. A child cannot be remanded to custody if it is not ‘very likely’ that they will receive a custodial sentence for the offence for which they appear before the court. Where a child has a history of breach or offending whilst on bail they cannot be remanded to custody unless the breach or offending is ‘relevant in all the circumstances of the case’ and is ‘recent and significant’. There

is a statutory duty on the court to consider a child’s best interests and welfare (MoJ, 2022a), but this framework does not apply to young adults. Instead, young adults are subject to the provisions set out in the Bail Act 1976 which apply to all adults and do not make any special provision for young adults.

There is also no mention of the need to consider the age or maturity of young adults in the Crown Prosecution Service’s (CPS) guidance to prosecutors on bail and remand or in the Adult Court Bench Book. Both documents contain flowcharts to explain the remand procedure which could be adapted to include references to age and maturity, drawing on the material in the CPS Code for Crown Prosecutors, Equal Treatment Bench Book and “expanded explanations” of these issues in sentencing guidelines (Allen, 201).

Young adults that are remanded are placed in ‘dual designated’ prisons alongside older adult prisoners where there is little difference in practice in how they are treated. As with all remanded adults, young adults do not have an offender manager in prison or a probation officer. This leaves them without any lead criminal justice professional responsible for their case and, in the Howard League’s experience, with less support than sentenced young adults.

Numbers and trends

Growing remand population

The last 12 months have seen a population explosion in prisons in England and Wales, and in particular, in the number of remanded prisoners which has been increasing since early 2020. The remand prison population on 30 June 2023 was 15,523, the highest level for at least 50 years (MoJ, 2023a). This represents a 16 per cent increase in a 12-month period and 60 per cent increase since the start of 2020 (MoJ, 2020). The Ministry of Justice attributes the growing remand population to the impact of continuing court recovery following Covid and, in part, by strike action by the Criminal Bar Association during Autumn 2022 (MoJ, 2023a).

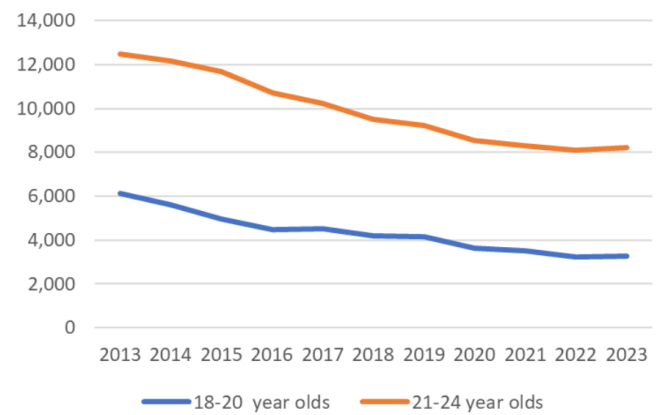
On 30 November 2022, ‘Operation Safeguard’ was announced by the government which allowed prisoners to be placed temporarily

in police cells. The increase in the number of people on remand was one of the reasons given for introducing this measure (UK Parliament, 2022a). Since then, the prison population has continued to rise leading to an overcrowding crisis.

Recent analysis of 245 inspections by HMIP shows that three-quarters of prisons in England and Wales are assessed as providing inadequate conditions or unacceptable conditions (The Guardian, 2023).

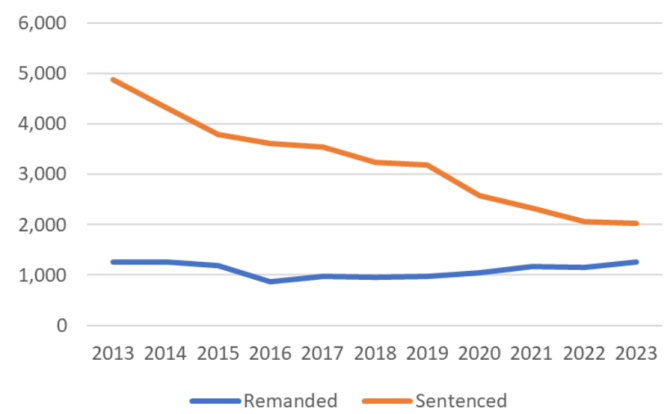
The young adult population

The number of young adults in prison in England and Wales has reduced significantly in the last decade. On 30 June 2023 there were just under 3,300 young adults aged 18–20, almost half the 2013 number, and just over 8,200 young adults aged 21–24, a reduction of more than a third. Young adults aged 18–24 make up 13 per cent of the total prison population, compared to 23 per cent a decade ago, although this is still an overrepresentation as compared to the general population where 18–24-year-olds make up around eight per cent of the population (MoJ, 2013/MoJ, 2023a; ONS, 2021).

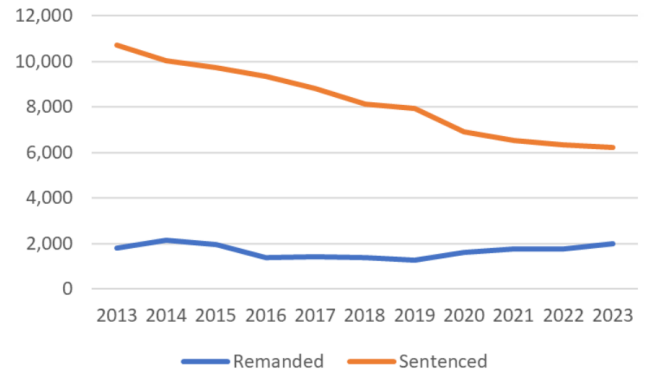


Number of young adults in prison between 2013 and 2023

However, despite a decrease in the number of young adults in prison, and a reduction in the number of 18–20-year-olds being remanded each year (data is not disaggregated for 21–24-year-olds), the number of remanded young adults in both age groups on any one day is similar to a decade ago (MoJ, 2013/MoJ, 2023a). This suggests that young adults are spending longer on remand, although this data is not published.



Number of remanded and sentenced 18-20-year-olds in prison between 2013 and 2023



Number of remanded and sentenced 21-24-year-olds in prison between 2013 and 2023

As with the overall remand population, the number of remanded young adults has been increasing since 2020. The tables below show a 30 per cent increase in the number of 18–20-year-olds on remand and 56% increase in the number of 21-24-year-olds in the last four years.

	2019	2020	2021	2022	2023
18-20 year olds	968	1,036	1,172	1,154	1,260

30% increase

	2019	2020	2021	2022	2023
21-24 year olds	1,267	1,619	1,772	1,752	1,979

56% increase

Number of remanded young adults as of 30 June each year between 2019 and 2023 (MoJ, 2020, 2022b and 2023a)

As of 30 June 2023, young adults aged 18-24 made up 21 per cent of the remand population in prisons as compared to 12 per cent of the sentenced population (MoJ, 2023a).

Justice Committee inquiry into the role of adult custodial remand

In March 2022 the Justice Committee launched an inquiry into the role of adult custodial remand, investigating how custodial remand is currently being used, the impact that being placed on remand has on prisoners, and the quality of support they receive.

In evidence provided to the inquiry, the Howard League raised concerns about courts remanding adults to prison for their own protection; the failure of the Ministry of Justice to collect, publish and disaggregate key data; the need for better guidance and training for judges and lawyers to support them to make better remand decisions; the overuse of remand for prisoners from racially minoritised backgrounds; and the need to focus on alternatives to custodial remand (Howard League, 2022).

In January 2023, the Justice Committee published its report. The report raised concerns about the increasing size of the remand population and the potential for it to increase even more. It found that people were being held on remand for longer awaiting trial or sentencing, and often beyond the six-month custody time limit. The report also found that the increasing remand population was putting pressure on an already stretched prison system, with those on remand being held in some of the worst conditions in prison. The report also identified a clear lack of support and opportunities for those held in prison (Justice Committee, 2023). The Justice Committee did not consider the needs of young adults as a distinct group.

Voices and experiences of young adults

In early 2023, the Howard League met with a group of sixteen remanded young adults aged 18-20 in a male Category B prison. The remand status of fifteen of the young adults was recorded, seven were unconvicted and eight were convicted. The ethnicity of ten of these young adults was recorded, with three recorded as identifying as Black, Black

British, Caribbean or African, two as Asian or Asian British, four as white (including Gypsy and Irish Traveller) and one as from another ethnic group.

Of these, fourteen young adults provided the Howard League with additional information about themselves. Six said they had been on remand for less than three months, five for three to six months and three for more than six months, including one who had been on remand for more than 11 months. Eleven said that it was their first time in prison. Seven said that they had had a social worker as a child but only three were receiving ongoing social care support.

This briefing includes the experiences, voices and lessons to be learned from those young adults. While their experiences are particular to them, and provide a snapshot of life in one prison, they are not unusual. The Howard League has heard similar stories from young adults across the prison estate through its specialist legal advice service. Many of the young adults' experiences and concerns also echo what children on remand told the Howard League in 2021 (Howard League 2021a) and those identified by the Justice Committee in their report.

Court proceedings, bail and remand

Confusing and unfair processes

Young adults told the Howard League that they found the legal process confusing and unfair.

One said *"It's not easy to understand the court process. The English they use is mad. I don't understand half the time. It should be easier to understand."* He went on to describe his experience of applying for bail and trying to get the attention of his legal representative to give instructions during a bail application in court. He said *"The judge was looking at me thinking I was aggressive because I was tapping on the window. He thinks I look aggressive. Because I'm in the dock. I'm innocent until proven guilty but I looked guilty. Guilty until proven innocent is what it is."*

Another young adult was due to have his trial

the following week but had still not seen any of his case papers. He said that he felt that the prosecution “*want me to go in with my eyes closed*”.

A court probation practitioner told the Howard League about difficulties that young adults have following court proceedings because of complex, technical language used by professionals. It was their experience that young adults were very rarely supported by intermediaries, whose job is to help to facilitate communication and effective participation in court proceedings, even when the young adults had significant learning or mental health needs.

Refusal of bail - unexpected and no reasons given

Some young adults said they understood why bail had been refused, even if the refusal was not always expected. One young adult had been advised by his legal representative that bail would be ‘guaranteed’ only for it to be refused. Another had been refused bail based on information about previous offences. He said this information was incorrect.

Professionals working with young adults in court told the Howard League that key information that would be relevant to bail is not always before the court. A lawyer specialising in representing young people said that children have a youth offending team worker responsible for putting together a bail package which is informed by discussions with the child, their families and other agencies. The lack of an equivalent professional for young adults means that there is no one responsible for gathering this information. If a young adult’s legal representative does not take on this role, and not all do, then this information will not be available for the court to consider.

A court probation practitioner told the Howard League that they found the decision to remand people without a report troubling. In a sentencing hearing, if a judge or magistrate is considering imprisonment they must obtain a pre-sentence report unless they consider it unnecessary. However, there is no requirement to obtain

a comparable report before someone is remanded, resulting in important information about a young adult’s needs and specific circumstances being unknown to the court.

One young adult told the Howard League that his bail application had been refused which had prevented him from starting his university course. He did not know the reasons why bail had been refused or who he could speak to about it.

In 2017, the Criminal Procedure Rule Committee introduced rules requiring the court to explain adequately its decisions on remand. However, the introduction of these rules does not appear to have had a significant impact, and the reasoning for remand decisions provided is often generic or lacking in detail, if provided at all (Smith, T. 2022).

The Justice Committee recommended that pronouncement cards, which use set phrases to outline decision-making by magistrates, should be reviewed to ensure they are as clear as possible for those being remanded and their use should be monitored to ensure they are being used consistently (Justice Committee, 2023). The government rejected this recommendation on the basis that it was a matter for the judiciary but acknowledged that “*it is essential that defendants understand the explanation of why they are being remanded*” (MoJ, 2023b).

Data on the reasons for remand decisions is not published, making it difficult to understand and scrutinise remand decisions. The Common Platform, a digital case management system used in criminal courts, stores data on why prisons hold people on remand with reference to the Bail Act. This data could be extracted and published by the Ministry of Justice (Centre for Public Data, 2023).

Racial discrimination

For Black, Brown and racially minoritised young adults the feelings of injustice and lack of faith in the system were compounded by experiences of racial discrimination. One young adult said “*There is no bail for*

people like us. Don't even think about it. Be prepared to come to [prison]. It's sad we have to think that way but you need to be mentally prepared." Another young adult said "When Black people go to trial the way they paint you is mad, like you're a monster or something. It don't make no sense." Another young adult said "I don't know how court works but I know colour does play a part. I know that for a fact."

In its guide for anti-racist lawyers, Making Black lives matter in the criminal justice system, the Howard League found that courts frequently fail to understand the contexts and unmet needs of Black defendants (Howard League, 2021b).

Remand is used disproportionately against Black, Brown and racially minoritised young adults. In 2022, 52 per cent of Black defendants aged 18-20 were remanded into custody during Crown Court proceedings, compared to 36 per cent of white defendants in the same age group. Thirteen per cent of the Black defendants were subsequently acquitted compared to only nine per cent of the white defendants. Similarly, 50 per cent of Black defendants aged 21-24 were remanded, compared to 38 per cent of white defendants in the same age group. Ten per cent of the Black defendants were subsequently acquitted compared to only eight per cent of the white defendants (MoJ, 2023c).

Until April 2023 the Ministry of Justice had not published data on remand and ethnicity in its quarterly offender management statistics. Data now published confirms the disproportionate use of remand. In June 2023, 13 per cent of people on remand identified as Black or Black British, as compared to four per cent of the general population, and 11 per cent identified as Asian or British Asian, as compared to nine per cent of the population (MoJ, 2023a).

The published data is not disaggregated by age. However, data provided by the Ministry of Justice to the Howard League confirms that the level of disproportionality is even greater for remanded Black or Black British young adults. In June 2023, 26 per cent of 18-20-year-olds on remand identified as

Black or Black British, as compared to less than five per cent of the general population, and 18 per cent of 21-25-year-olds identified as Black or Black British, as compared to nine per cent of the population (MoJ, 2023d).

Delays and lack of regard for custody time limits

The current custody time limit following remand is six months, but an application can be made to renew the custody limit and there is no limit on the number of renewals that can be granted. Three of the young adults the Howard League met with had been in custody beyond the six-month time limit. Some young adults shared experiences of delays in sentencing. One young adult had been waiting for four months to be sentenced with his case being repeatedly adjourned because a pre-sentence report had not been prepared. Another young adult had pleaded guilty but sentencing was delayed while he waited for his co-defendant's trial to finish, prolonging the uncertainty for him.

The Justice Committee recommended that the government review the framework for custody time limits, noting that it should be standard practice that custody time limits are strictly adhered to except in exceptional circumstances. The government rejected the recommendation.

As of 30 September 2022, more than 30 per cent of people on remand (4,582 people) had been held beyond the initial limit of six months, including 1,309 people for between a year and two years, and 770 people for two years or more (UK Parliament, 2022b).

Black, Brown and racially minoritised people spend longer on remand. In 2022, Black prisoners spent, on average, 302 days on remand compared with 177 days for white remand prisoners. Defendants of all minority ethnic backgrounds spend considerably longer on remand than white defendants with mixed-race prisoners spending an average of 272 days on remand and Asian prisoners being held for an average of 262 days (Liberty Investigates, 2023).

The length of time that people are remanded is not published by the Ministry of Justice. However, HMPPS's prisoner management system records information on remand prisoners, including dates of remand, so it should be possible for this information to be extracted and published (Centre for Public Data, 2023).

Inadequate legal representation

The Young adults' experiences of their legal representation varied. Some described not feeling listened to, being unhappy with the advice they received and feeling forgotten by their legal representatives once they had been remanded, at times waiting for months for visits. This was compounded by delays getting telephone numbers for legal representatives approved in prison, not having sufficient funds to make calls and video links being cancelled.

Professionals shared similar concerns. They gave examples of young adults not knowing how to instruct a legal representative or who to instruct, finding it difficult to get updates from them, and being given unrealistic advice about the likely outcome of their criminal case. Professionals talked about how beneficial it would be to have criminal defence solicitors who specialised in representing young adults and took time to understand their specific needs.

Changing legal representation when it is funded by legal aid was also an issue of concern for some young adults who were unhappy with their representative but could do little about it. This concern was shared by a criminal defence lawyer who specialises in representing young people. In their experience young adults would often accept anyone representing them at the police station, particularly if they were to appear in court the next day and there was a risk of not having representation. However, once legal aid forms had been signed it was very difficult to change legal representation, something young adults were not usually aware of.

Lack of suitable accommodation

Following the unification of the Probation

Service in June 2021, and subsequent changes in the delivery of resettlement services, remand prisoners were not included in new contracts with accommodation support agencies in prisons (HMCIP, 2022). The Chief Inspector of Prisons found the reduction in resettlement teams in some prisons and the restructuring of the probation service "put remand prisoners at the back of the queue" (HMCIP, 2023).

Professionals told the Howard League that there was a lack of understanding around rights to housing and accommodation, and a lack of sufficient, safe and suitable accommodation available to enable young adults to apply for bail. A court probation practitioner told the Howard League that they saw quite a lot of young adults being remanded because of a lack of accommodation. A personal advisor from a leaving care team described difficulties in finding accommodation for young adults who had been assessed as high risk, challenges getting funding agreed for placements, and difficulties for them managing their accommodation placement which consequently put the placement and their liberty at risk. A criminal defence lawyer said that once they turned 18 there was little support offered to find them accommodation.

Howard League lawyers are regularly contacted by young adults who do not have suitable accommodation available to them at various stages of the criminal justice process, including when they need it to apply for bail. This includes care leavers who are legally entitled to have support that meets their assessed needs, including the provision of accommodation if required.

The Bail Information Service (BIS), a service run by the Ministry of Justice, triages and prioritises remand prisoners awaiting trial who are potentially suitable for bail. This includes making referrals for bail accommodation. Following a pilot project, the Ministry of Justice is currently in the process of rolling out Bail Information Services nationally and the expectation is that every prison with a reception function will have a Bail Information Officer in post. This will be a vital service for young adults

who are no longer eligible for bail support from youth offending teams.

Life in custody

Poor induction processes and information sharing

Young adults said that the induction process when they arrived in prison was poor, leaving them to rely on other prisoners for information about essential processes like 'canteen', (the process for buying toiletries, phone credit and extra food). They were given an induction pack, but staff did not go through it with them face to face. Most of the young adults the Howard League met with were in prison for the first time.

Young adults said that there was no difference in treatment between convicted and unconvicted prisoners, other than the amount of money they could spend on canteen. They were unaware of and did not receive their additional visiting entitlements whilst unconvicted. The government has accepted the Justice Committee's recommendation on this issue (MoJ, 2023).

Young adults said they would like the induction process to include staff explaining what to expect from day-to-day life in prison and thought that all young adults should have an allocated keyworker to support them.

One of the key difficulties identified by professionals working with young adults was a lack of available information about remand, made worse by poor communication between professionals. At the heart of this was the absence of any lead criminal justice professional, either in prison or in the community, who had responsibility for remanded young adults.

A prison governor described the difficulties of supporting young adults who arrived straight from court without any paperwork or information. This left prison staff 'working blind' and relying on self-disclosure, which was made more difficult when a young adult had complex mental health, learning or communication needs. A lack of information made it more difficult to support remanded

young adults, particularly with urgent issues such as receiving the correct medication, being provided with mental health support and being supported on substance misuse issues.

Lack of regime

Young adults raised significant concerns about their daily regime, with the majority spending around 23 hours a day in their cell. Young adults wanted to have jobs and engage in education. One young adult said that he had filled out more than ten forms asking for an opportunity to work or attend education and had heard nothing back. Of the small number of young adults who had jobs, some talked about a wait of more than six months to get them.

Lots of young adults talked about the benefits of having time to exercise and the disappointment of being able to see facilities in the prison but not being able to access them. One young adult said, *"The day I played football for an hour felt like I wasn't in prison."*

The Justice Committee recommended that the government ensure that people on remand are not deprioritised for education, training and employment (Justice Committee, 2023). This has been accepted by the government.

Lack of mental health support

A key concern from young adults was the lack of access to mental health support. Two had experienced delays of more than four months following a referral to the prison's mental health team. Another said that he had an appointment with the mental health team but was not taken to it by prison staff and then got a letter saying that he did not attend. When he asked staff he was told to reapply but did not know how to do this and nor did staff.

Young adults felt that staff should do more to identify those with mental health needs through the induction process. One said, *"It's hard to remember what's wrong with each person but if you start to see someone every single day [staff] should look into why*

they behave in certain ways, there's certain extra needs."

Another young adult talked about the need for prisoners to support each other in the absence of sufficient mental health support. He said *"If you've got a problem, you're really going through it I'll chat to you. You don't need to be a listener. The only reason why I'm like that – one of my friends, I didn't think much was wrong with him, spoke to him like normal, woke up next day and [he] had killed himself."*

The Justice Committee recommended that the government ensure that people on remand are not deprioritised for mental health assessments (Justice Committee, 2023). This has been accepted by the government.

Feeling unsafe

The perception of young adults was that prison staff did not feel they were responsible for keeping them safe. Information about possible issues with other prisoners was gathered as part of the induction process but that information was not properly recorded and used to inform where they could safely be placed in the prison.

Young adults felt limited in what they could do to keep themselves safe, because they could not just choose to move from one part of the prison to another if they felt unsafe. One young adult described the process of 'riding voluntary' where a prisoner can choose to self-isolate. He explained, however, that other prisoners will have heard an officer come to that prisoner's cell to ask whether they want to come out or not, leaving them little choice but to come out to avoid being seen as 'weak' and therefore a target.

Lack of faith in the complaints system

Young adults had no faith in the complaints system. They did not think that there was any point in submitting a complaint about their regime or treatment, either because they would not get a response to their complaint, or because they did not think they would be

believed.

One young adult said *"If a gov [an officer] mistreats you, you wouldn't say it, you wouldn't complain. It's your word against theirs. They believe the gavs. What you sometimes do is sit down with another gov. Gavs are open to do it. You can at least explain it to them, what happened. I think this is better way of solving things."*

Some young adults were not aware that they could complain confidentially within the prison, or that a complaint could be escalated outside the prison to the Prisons and Probation Ombudsman (PPO). The PPO has previously reported that it receives a disproportionately small number of complaints from young people under 21 in custody (PPO, 2017).

Social care support – a 'postcode lottery'

Only a small number of young adults that Howard League lawyers met with were receiving leaving care support from children's social services. There was limited understanding about what support was available to care leavers whilst in prison and when applying for bail. One young adult who had a leaving care worker said that their personal advisor initially visited every two to three weeks but this soon stopped and he had not seen them for three months. This reflects the Howard League's experience of representing young adults in prison, where it is often only when a young adult is seeking advice about another issue that their right to leaving care support is identified.

The consensus from professionals was that much more could be done to identify remanded young adults who are entitled to leaving care support. Instead, there was an over reliance on young adults self-reporting, who did not always know whether or not they were entitled to leaving care support. It is positive that the government now has a strategy for care-experienced people in prison and has published guidance on how criminal justice professionals can support care-experienced people (HMPPS, 2023). However, professionals told the Howard League that in practice systems are not sufficiently embedded, resulting in young

Some professionals felt that there was a lack of knowledge amongst them on the rights of care leavers, including some personal advisors who are responsible for providing the support. This resulted in a postcode lottery, with the amount and quality of support varying from local authority to local authority. A personal advisor from a local authority told Howard League lawyers that when young adults go into custody it can change how they are perceived by some personal advisors who can become less engaged. However, they also found that practical difficulties in prison – such as telephone numbers not being added to approved lists or young adults not being brought to in-person visits or video links – made communication more difficult and led to young adults feeling let down and upset.

Young adults on remand are being overlooked. They make up a fifth of the remand population and are spending longer and longer in custody in overcrowded prisons before trial and sentencing. Some do not know why they have been remanded in the first place. Statutory agencies are not required to support them. They are subject to impoverished regimes, have insufficient contact with family and friends and are not provided with timely, specialist support with their mental health. Care-experienced young adults are subject to a 'postcode lottery' in terms of the degree and quality of social care support they receive.

Remanding a young adult to prison should be a last resort. Young adults need specialist lawyers who understand their needs. Turning 18 should not be a cliff edge and the law should be amended to reflect this, with more consideration given to age and maturity by the courts and prosecutors.

References

His Majesty's Inspectorate of Prisons (2021)

Outcomes for young adults in custody: A thematic review by HMIP. Available at: <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/01/Young-adults-thematic-final-web-2021.pdf>

His Majesty's Prison and Probation Service (2021). *Outcomes for Young Adults Action Plan: March 2021.* Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/979647/Outcomes_for_Young_Adults_Action_Plan_March_2021.pdf

His Majesty's Prison and Probation Service (2022). *Probation Service Management of Young Adults.* Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052213/probation-service-management-young-adults.pdf

His Majesty's Prison and Probation Service (2023) *Care Experience Matters.* Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1141299/care-experience-matters.pdf

Howard League (2017) *Judging maturity: Exploring the role of maturity in the sentencing of young adults.* Available at: <https://howardleague.org/wp-content/uploads/2017/07/Judging-maturity.pdf>

Howard League (2019a) *Sentencing principles for young adults.* Available at: <https://howardleague.org/wp-content/uploads/2019/01/Sentencing-principles-for-young-adults.pdf>

Howard League (2019b) *Sentencing Young Adults: Making the case for sentencing principles for young adults.* Available at: <https://howardleague.org/wp-content/uploads/2019/01/Sentencing-Young-Adults.pdf>

Howard League (2020) *Young Adults in prison during the Covid-19 pandemic.* Available at: <https://howardleague.org/wp-content/uploads/2020/06/YA-Covid-19-Briefing-FINAL.pdf>

Howard League (2021a) *Children on remand: Voices and lessons.* Available at: <https://howardleague.org/wp-content/uploads/2022/05/Children-on-remand-voices-lessons.pdf>

Howard League (2021b) *Making Black lives matter in the criminal justice system: A guide for antiracist lawyers.* Available at: <https://howardleague.org/wp-content/uploads/2021/09/A-guide-for-antiracist-lawyers-1.pdf>

Howard League (2022) *Written evidence from the Howard League to the Justice Committee inquiry on the role of adult custodial remand in the criminal justice system.* Available at: <https://committees.parliament.uk/writtenevidence/108029/pdf/>

Liberty Investigates (2023) *Black people spend 70 percent longer in prison awaiting trial and sentencing.* Available here: <https://libertyinvestigates.org.uk/articles/black-people-spend-70-percent-longer-in-prison-awaiting-trial-and-sentencing/>

Ministry of Justice (2013) *Offender management statistics quarterly: January to March 2013.* Available at: <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-jan-mar-2013>

Ministry of Justice (2020) *Offender management statistics quarterly: January to March 2020.* Available at: <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2020>

Ministry of Justice (2022a) *Amendments to the youth remand framework.* Available here: <https://www.gov.uk/government/publications/amendments-to-the-youth-remand-framework>

Ministry of Justice (2022b) *Offender management statistics quarterly: January to March 2022* Available at: <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2022>

Ministry of Justice (2023a) *Offender management statistics quarterly: January to March 2023.* Available at: <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2023>

gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2023

Ministry of Justice (2023b) *The role of adult custodial remand in the criminal justice system: Government Response to the Committee's Seventh Report*. Available here: <https://committees.parliament.uk/publications/34667/documents/190808/default/>

Ministry of Justice (2023c) *Criminal Justice System statistics quarterly: December 2022*. Available at: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2022>

Ministry of Justice (2023d) Response to Freedom of Information request Ref. FOI230810013, dated 7 September 2023.

Office of National Statistics (2021) *Census 2021*. Available at: <https://www.ons.gov.uk/datasets/create>

Parole Board (2021) *Guidance for Parole Board Members on Young Adult Prisoners*. Available at: <https://www.gov.uk/government/publications/guidance-for-parole-board-members-on-young-adult-prisoners>

Prisons and Probation Ombudsman *Learning Lessons Bulletin: Young people in custody*. Available at: https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkhjmgw/uploads/2017/02/PPO-Learning-Lessons-Bulletin_Young_people_in_custody_Feb17_Final.pdf

Sentencing Council (2019) *General guideline: overarching principles*. Available at: <https://www.sentencingcouncil.org.uk/overarching-guides/magistrates-court/item/general-guideline-overarching-principles/>

Smith, T. (2022) *The Practice of Pre-trial Detention in England & Wales - Changing Law and Changing Culture*. Available here: <https://link.springer.com/article/10.1007/s10610-022-09504-y>

UK Parliament (2022a) *Prison Capacity: Volume 723 debated on Wednesday 30 November 2022*. Available at: <https://hansard.parliament.uk/Commons/2022-11-30/debates/520966EF-BB43-4380-8800-21C46222BE00/PrisonCapacity>

UK Parliament 2022b: *Written questions, answers and statements. Prisoners on Remand*. Available at: <https://questions-statements.parliament.uk/written-questions/detail/2022-11-15/HL3409>

About the Howard League for Penal Reform

The Howard League for Penal Reform is the world's oldest penal reform charity – a membership organisation that combines litigation, campaigning and policy work. Our aim is to building a more humane and effective response to crime that provides justice to all and helps to reduce reoffending. We have a dedicated legal advice line for children and young adults in custody.

About the Barrow Cadbury Trust

This report was made possible by support from the Barrow Cadbury Trust. The Barrow Cadbury Trust is an independent, charitable foundation committed to bringing about a more just and equal society. Transition to Adulthood (T2A) is convened and funded by the Barrow Cadbury Trust. It campaigns for a distinct approach for young adults (18-25) based on their ongoing maturation.

Howard League for Penal Reform

1 Ardleigh Road
London
N1 4HS

ISBN 978-1-911114-76-5

Company limited by guarantee
No. 898514
Registered charity
No. 251926

2023

