

CRBB2.0

Data collection

United Kingdom

The indicators, presented hereunder, are a selection of the indicators developed by Unicef and UNODC along with the indicators developed by the UN Global Study on children deprived of liberty. The selection was based on the following criteria:

- Relevancy to CRBB2.0 project
- Availability of the data

We would like to identify data and indicators that give a glance on the situation of children deprived of liberty in each partner country. This data collection will be used to present the situation in each country.

Children deprived of liberty within the administration of justice

- 1) What is the minimum age of criminal responsibility in your country?
If the minimum age of criminal responsibility varies within your country, please provide details.

The age of criminal responsibility in England and Wales is 10 years old.

- 2) Are there separate juvenile justice processes and/or facilities for children in conflict with the law?
Please describe juvenile justice arrangements at all levels of the criminal justice system (police, courts, corrections).

Police Station

- After an arrest, the child's parent, guardian or carer must be identified and informed of the arrest, the grounds for the arrest, and where they are detained¹.
- An appropriate adult (who may or may not be the same person) should be asked to come to the police station; the appropriate adult's role is to support and advise the child, as well as look after his/her welfare and ensure his/her rights are protected.² The child may not normally be interviewed or asked to provide a statement without an appropriate

¹ Paragraph 3.13 Code C, section 34(2) & (3) Children and Young Persons Act 1933

² Code C 3.18, Police and Criminal Evidence Act 1984



adult present, except under specific circumstances (e.g. where delay would be likely to cause further harm and the superintendent is satisfied that the interview would not significantly impact the child's physical or mental state).

- Children are to be kept separate from adults when at the police station or when they are being transported. Girls should be looked after by a female police officer.

Out of court disposals

- A police officer can decide, under certain circumstances, to proceed by way of reprimand or final warning. This is given in the presence of an appropriate adult. Generally a final warning will be accompanied with a referral to the local youth offending team who will arrange for the child to participate in a rehabilitation programme.

Bail

- Bail applications for children are different from adults: the Youth Offending Team (YOT) must provide information and support tailored to the individual case, and the police and courts should consider the child's best interests according to Article 3 UNCRC. If bail is refused the child must be remanded to local authority accommodation unless certain conditions require his remand in custody. Children should not be kept in the police station overnight³.

Court

- There is a general principle that children should be tried and sentenced in the Youth Court whenever possible⁴. However, more recently, there have been increasing instances of children being made subject to Crown Court trials, which are not designed for them; but cases in the ECHR⁵ have led to some changes in procedure. More recent guidelines⁶ suggest ways to facilitate children's participation in trials, e.g. avoiding complicated language, arranging familiarization visits to the court, having the child sitting out of the dock, explaining the charge, process and possible outcomes... Special measures such as live link (allowing a defendant to give evidence from outside the courtroom) may also be available.
- There is an automatic ban on the identification of children in the Youth Court⁷. In the magistrates' court or Crown Court the judge will decide whether to grant anonymity⁸, and must consider the welfare, best interests, and right to privacy of the child.

³ Section 38(6) Police and Criminal Evidence (PACE) Act 1984

⁴ Overarching Principles: Sentencing Youths, Sentencing Guidelines Council, November 2009

⁵ *T v UK*; *V v UK* (30 EHRR 121) and *SC v UK* (App no 60958/00, judgment of 15 June 2004))

⁶ Criminal Practice Directions [2013] EWCA Crim 1631

⁷ Section 49 Children and Young Persons Act 1933

⁸ Section 45 Youth Justice and Criminal Evidence Act 1999



- Children under 16 must be accompanied by a parent or guardian, unless the court thinks it unreasonable⁹.
 - When a child is convicted of an offence (other than homicide) before the Crown Court, the court is obliged to remit him/her to the Youth Court for sentence unless this is 'undesirable'¹⁰
- 3) From what age are children subject to detention in the juvenile justice system?
From what age are they subject to detention in the adult criminal justice system?

Children from the age of 10 who received a custodial sentence are subject to detention in the juvenile justice system, either in:

- Secure Children's Homes (SCHs) – small local authority run units with high ratios of well-trained staff, education, therapeutic and behavioural provision tailored to children's needs. Children are held in small units within each home, where relationships built with staff and high levels of interventions enable children to make positive changes to overcome the barriers to leading positive lives when they are released.
- Secure Training Centres (STCs) – purpose built child prisons. Two are run by private companies for profit. Medway STC was privately run but has been placed under the control of Her Majesty's Prison Service. STCs have a more punitive ethos than secure children's homes and from the outset have been characterized by being staffed by proportionately fewer, less well-trained staff, which has resulted in an over reliance on restraint. They provide 301 places holding boys and girls across four establishments.
- Young Offender Institutions (YOIs) – part of the main prison system, these are large institutions with the lowest staff ratios (as few as 4 officers on a wing of 60 boys). Children spend the majority of their days locked in their cells and are under the control of staff who have not chosen, and have little training, to work with children. YOIs are wholly unsuitable for children, yet four in five children who are in custody are imprisoned in them.

Children are held separately from adults. However, children as young as 17 are sometimes 'starred up' and sent to adult prisons which are not appropriate for them.

- 4) Please provide the number of children deprived of liberty on 30 September 2017 in the criminal justice system:
- A) in police custody for suspected offenses
 - B) in pre-trial (remand) detention

⁹ Section 34A Children and Young Persons Act 1933

¹⁰ Paragraph 2.15 Overarching Principles: Sentencing Youths

C) in prison or other detention facilities after a conviction and sentence (or their equivalent in domestic law)

Please provide data disaggregated by age and nationality (citizens/non-citizens) where possible. **Table 1: Children deprived of liberty in the criminal justice system¹¹**

Age	10 to 14 years	15 years	16 years	17 years	Total under 18
Remand (pre trial detention)					
Male					
Female					
Total pre-trial detention					184
Prison					
Male					
Female					
Total prison					678
Total					
Male					839
Female					23
Total	40	101	297	424	862

¹¹ January 2017 data - <https://www.gov.uk/government/statistics/youth-custody-data>

Youth custody population by legal basis for detention Jan 2017

	Total under 18 in detention
Remand (pre trial detention)	203
Sentenced to custody	655
Total in custody	858

Youth custody population by gender (average monthly youth population year ending March 2017)

Male	843
Female	25
Total	868

- 5) Please provide the total number of children aged 0-17 taken into police detention for suspected offences in each of the last 10 years.

Table 2: Children taken into police detention for suspected offences

Children arrested for suspected offences¹²:

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Male		251,552	205,790	193,637	168,801		107,986	92,660	85,008	73,038
Female		62,969	56,467	46,207	34,607		21,287	19,377	16,918	14,487
Total		314,521	262,257	239,844	203,408	149,983	129,273	112,037	101,926	87,525

Children detained overnight in police custody¹³:

	2008-2009*	2010**	2011**
Male	42,155	38,932	34,520
Female	10,845	6,386	6,196
Total	53,000	45,318	40,716

*10-15 years old

** 10-17 years old

- 6) Please provide the total number of children aged 0-17 taken into pre-trial detention in each of the last 10 years.

Number of custodial remand episodes given to young people*¹⁴

(Year ending March)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total			5,504	3,404	3,485	3,621	1,900	1,930	1,456	1,483

*The data available only shows the number of remand episodes given by Courts within a year, which may not equate to the number of children taken into pre-trial detention.

Average monthly remand population

(Year ending March)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Male	599	574	572	559	504	457	328	253	234	179
Female	38	35	33	28	24	19	11	7	6	4
Total	637	609	605	587	528	477	338	260	240	183

Annual youth justice statistics, supplementary tables

- 7) Please provide the total number of children aged 0-17 taken into prison or other correctional detention facilities in each of the last 10 years.

¹² Howard League reports on Child Arrests in England and Wales

<http://howardleague.org/publications/?keyword=child+arrests&search=1&subject=15>

¹³ Howard League reports on overnight detention of children in police custody

<http://howardleague.org/publications/?keyword=overnight+detention&search=1&subject=15>

¹⁴ Annual supplementary tables 6.1, <https://www.gov.uk/government/collections/youth-justice-statistics>

Table 4: Children taken into prison or other correctional detention¹⁵

(Year ending March)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Male	5,583	5,301	4,964	4,314	3,904	3,739	2,625	2,108	1,738	1,593
Female	454	483	447	319	274	254	136	130	86	66
Total¹⁶	6,037	5,793	5,450	4,657	4,199	4,024	2,818	2,260	1,844	1,687

8) What sentencing options are available for children convicted of a criminal offence?

Children from 10 to 17 may receive:

- An absolute or conditional discharge, as for adult offenders.
- A fine – paid by a parent/guardian for children under 16.
- A referral order – an order to attend a youth offender panel and agree on a contract lasting 3-12 months, containing specific commitments to address the offending behaviour.
- A youth rehabilitation order – a community sentence of up to three years where the child must comply with specific requirements (such as unpaid work, curfew, treatment...)
- A custodial sentence (in the most serious cases) which can take the form of:
 - A Detention and Training Order (DTO). These can last between four months and two years, with half of the sentence spent in custody and the other half in the community, under supervision. A breach of the conditions of the supervision may lead to the child being recalled in custody.
 - A longer sentence, Detention for Public Protection (DPP), or life imprisonment for specified offences where the court also considers that there is a significant risk of serious harm to the public.
 - Detention during Her Majesty's Pleasure – a mandatory life sentence, imposed when the defendant is convicted of or pleads guilty to murder.

9) What is the longest period of custodial detention (imprisonment or other form of detention) to which a child can be sentenced?

The longest sentence a child can receive is life imprisonment or Detention during Her Majesty's Pleasure. The starting point for determining the minimum term to be served in custody is 12 years (as opposed to 15 years for adults).

10) Can children be sentenced to capital punishment?

No – capital punishment has been abolished in the UK.

11) For each of the last ten years (2007-2016), please provide the total number of children aged 0-17 sentenced to life imprisonment and capital punishment.

Table 5: Children sentenced to life imprisonment¹⁷

¹⁵ Annual supplementary tables 5.5a and 5.5 b, <https://www.gov.uk/government/collections/youth-justice-statistics>

¹⁶ Including children of unknown gender

¹⁷ <https://www.gov.uk/government/statistics/sentencing-statistics-annual-ns> (Table 2.d)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Children sentenced to life imprisonment										
Male	23	24	22							
Female	3	1	1							
Total	26	25	23	19	15					

Data are not available for the number of children sentenced to detention at her majesty's pleasure from 2011 onwards.

- 12) Please provide the rate (per 100 000 population) of criminal offending (all offenses) by age for the most recent calendar year available.

Person found guilty at all courts by sex and age group 2017

Age	Aged 10-11	Aged 12-14	Aged 15-17	Total
Males	66	3,238	17,408	20,712
Females	3	626	2,222	2,851
Total	69	3,864	19,630	23,563

Persons found guilty at all courts per 100,000 population by sex and age group 2017

Age	Aged 10-11	Aged 12-14	Aged 15-17	Total
Males	10	376	1,850	2,236
Females	-	68	233	301
Total	10	444	2,083	2,537

Proven offences by children by year

(Year ending March)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Total	295,129	277,986	244,583	198,449	171,750	137,335	98,837	90,769	87,160	79,641	72,985

- 13) Please provide information on all alternatives to the deprivation of liberty of children for juvenile or criminal offenses that are provided for by law, policy or practice. (whether in police custody, pre-trial, or after conviction).

The police may choose to give the child an out of court disposal or take no further action. Children who are charged may be released on bail from the police station; those who are refused

bail should never be kept in the police station overnight and should normally be transferred to local authority accommodation¹⁸, however this is not always done and many children are still detained overnight in police stations every year.

The child's lawyer will also make an application for bail on the child's first appearance in court. The police and courts should consider the child's welfare and best interests regarding the issue of bail.¹⁹

Depending on the case, a court may choose to proceed by way of a referral order or a Youth Rehabilitation Order instead of custody.

Children who receive a custodial sentence may be placed by the Youth Justice Board in a Secure Children's Home (SCH), an STC or a prison.

- 14) Have there been any major legislative or policy changes related to children in conflict with the law during the last ten years (2007-2016)?

Please provide examples of good practices aimed at preventing the detention of children, reducing the number of children deprived of liberty within the administration of justice or shortening the period of detention.

- Child arrests – Since 2010, the Howard League has been campaigning to reduce the numbers of child arrests in England and Wales. Our work with the police coincided with a fall of 59 per cent in the number of child arrests between 2010 and 2017.
- Access to appropriate adults at the police station for 17 year olds – The Howard League intervened in the case of *R (on the application of HC) v Secretary of State for the Home Department, 2013*. Before this judgment, children aged 17 were dealt with as adults, which meant they did not automatically receive the support of an appropriate adult to help them through the legal process. In many cases, parents were not even told that their son or daughter had been arrested.
- Detention of children in police station following charge. Recognising the continued high number of children kept in custody overnight at the police station despite legal requirements to transfer them to suitable accommodation, the Home Office published a *Concordat on Children in Custody* on 30 October 2017. The Concordat aims to clarify the legal requirements and bring about a decrease in the number of children held in police custody.²⁰

¹⁸ Section 38(6) of the Police and Criminal Evidence (PACE) Act 1984

¹⁹ Section 11 Children Act 2004, Section 44 Children and Young Person's Act 1933

²⁰https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655222/Concordat_on_Children_in_Custody_ISBN_Accessible.pdf