PUPILS 2 PARLIAMENT

SUBMISSION TO THE JOINT COMMITTEE ON HUMAN RIGHTS

In response to the Call for Evidence on

The Criminal Justice Bill 2023

School pupils' views

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on behalf of Pupils 2 Parliament

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Introduction

1. Pupils 2 Parliament is a charitable project working with schools to gather pupils' views and experiences for submission to Parliamentary Select Committee inquiries and Government consultations.

2. The project consults pupils independently, and reports pupils' views without selection or bias. Issues are put to pupils neutrally, based on the information in the call for evidence or consultation document.

3. The Clerks of both Houses of Parliament have given permission for the project to use the term "Parliament" in its title.

4. This submission is based on the views of 83 pupils, from two primary schools and one secondary school (Bishop Hereford's Bluecoat School, Eardisley CofE primary school and Kingsland CofE primary school.

5. We invited pupils to consider each of the relevant provisions in the Bill, as set out in the call for evidence and the Bill itself, from the perspective of whether or not they achieved an appropriate balance between the intended improvement in fighting crime, and the human (or specifically children's) rights affected.

6. The sections in this submission relate to the relevant questions raised in the Call for Evidence.

Clauses allowing the transfer of prisoners to foreign prisons

7. We asked the pupils in all three schools to vote for or against the provision in the Bill that would allow for the transfer of prisoners to foreign prisons.

8. **Pupils voted more than two to one AGAINST introducing the provision for transfer of prisoners**.

9. Pupils generally proposed two alternative solutions to prison overcrowding in the UK; increasing our own prison stock, and making greater use of supervision in the community for less serious crimes and shorter sentences.

10. They were concerned that prisoners transferred abroad would indeed be less likely to receive family visits, and they did see this as an unnecessary breach of their reasonable rights – "the right of a prisoner to be visited by a family member". It also risks making rehabilitation more difficult.

11. It was argued that prisoner transfers abroad raised significant equality issues too. One pupil said there would be "no equality if someone from the UK gets put in a prison in the UK but another person doesn't".

12. Concern was raised that problems would arise from prison regimes being different abroad, including policies about release. This could create confusions and unfairness – although one pupil argued that the very unfamiliarity of this could well form part of an offender's punishment. Some prisons abroad might also perhaps be almost "like a holiday". Transfers to prisons abroad should only be allowed "as long as there are similar punishment levels" to those in UK prisons.

13. It was said that any transfers abroad would require a great deal of thinking through: "how would we deal with conflicting laws and policies in other countries regarding sentence and benefits for behaviour etc?".

14. Pupils also thought transferred prisoners could face problematic language difficulties, also affecting their rights.

15. Concern was raised that transfers involving prisoners facing different prison rules and regimes abroad, language barriers, and loss of family contact, could all increase the "instinct to escape".

16. Transfers abroad were also seen as introducing increased risks and resistance during transport, for example by attempted hijacking of aircraft. It may even prove necessary to sedate prisoners during long and risky journeys abroad.

17. Pupils proposed a range of ways to increase prison space in the UK, not only building prison extensions or additional storeys onto existing prisons (even creating "skyscraper prisons"), but (acknowledging cost issues) subdividing spaces where possible, using prison ships, and converting transport containers into prison accommodation. Another view on cost of increasing prison space was that in the light of the levels of government spending on some

other issues, a greater priority should be given to expenditure on building new prison accommodation.

18. Noting the government concern to allow for longer sentences for more serious offenders, there were proposals for developing higher security long term facilities such as accommodation underground (allowing other uses for the land surface, such as renewable electricity generation) and use of offshore islands.

19. Another proposal was to increase available space by establishing lower security supervised prison villages – perhaps also including separate supervised open villages for younger offenders. An advantage of open but closely supervised prison villages, especially for young offenders, is that it avoids the risk that “jail may make your anger worse”.

20. The use of closely supervised youth hostels was also proposed as a solution to the space problem for the youngest offenders, with a regime focusing on education against offending.

21. A new offender grading system was proposed, based on length of sentence, seriousness of the offence and risk to the public, to encourage greater use of supervision in the community for low risk offenders convicted of lesser offences, post release supervision, electronic tagging and curfews – but use of such measures should depend on the current space pressures in prisons, rather than being individual prisoner rights.

22. Proposals were made for the assessment of suitability of individual prisoners for any possible transfer abroad, such as whether they do actually have family members who do wish to visit them, risks of transporting them for long journeys, escape risk, suitability (and suitable accommodation) for any part of their sentence being spent under supervision rather than in prison, length of sentence, and seriousness of offence.

23. It was proposed that it might be possible to transfer some prisoners to a country where they already have links - to a prison in their own country if they are foreign nationals, with consideration of whether they have any family members in the relevant country, and if so, which way that should affect a transfer decision.

24. In dealing with shortage of prison space, some pupils cautioned that young offenders should still be kept separately from older prisoners, who might be a negative influence on them.

25. Some saw transfer abroad as more appropriate for 'middle length sentence' prisoners, rather than those with short sentences or life sentences. A few saw it as important for those sentenced to life to be accommodated in their own country.

26. Many saw transfer for those with long sentences as feasible, but wished to see it as a temporary solution to shortage of UK prison space, with prisoners returned to a UK prison if space allows.

27. Some pupils were concerned at the effect on other countries of transferring UK problems to their prison systems – it could place pressures on other countries' prison space. And it is "not the other country's problem".

28. A very different rights argument was raised by one pupil – that some prisoners may be innocent of their crime. They argued that the possibility of transferring an actually innocent prisoner to a prison abroad should be taken into account in the final decision-making on this provision in the Bill.

29. Pupils discussed at length the balance between punishment of offenders for the most serious of crimes, and the rights of those offenders. One raised the question of whether taking one or more lives of others should override the right of the offender to their own life and thus justify return of capital punishment.

Changes to ensure that offenders attend their sentencing hearings

30. The pupils voted very strongly (by 73 to only 6 against, with 4 abstentions) FOR introducing this change to the law – both to hear their sentence in person, and to hear the details of the judgement against them.

31. The overall view was that attending court in person to hear the judgement against you is part of facing the consequences of your crime and its effects on the victims. There should be no right to escape facing that – and as one pupil put it, to "feel the full guilt". Typical pupil views were; "it's kind of tough – but the shouldn't have done the crime", "if they're confident enough to

commit a horrible crime, then they should be forced … to hear their sentence".

32. There were two other main views – that the importance of attending in person depends on the seriousness of the crime committed, and that it may be less important to make child offenders attend in person – children could perhaps hear judgement online.

33. Some thought that victims should have a say in whether the offender is made to attend court for sentencing, although the fairness of this was questioned as it could represent revenge. It was suggested that parents should have a say in relation to child offenders. Another view was that children should be given warnings first, and only be made to attend court for sentencing for a repeat offence.

34. However, these views were strongly disputed – some felt that attending in person should apply to any crime and all ages, and that for children and young people attending in person is vital to learning the consequences of actions and deterring from future criminal behaviour. A view was expressed that if a child commits a serious crime, that is so extremely wrong that the child must be made to listen to the consequences, as much as an adult should.

35. Very few pupils saw being able to decide not to attend court for sentencing as a right. It was however suggested that if an offender exercises this 'right', there should be a penalty of additional time on their sentence.

36. There was a view that offenders should be given an explanation of what is going to take place at their sentencing hearing, and why.

37. Some thought that offenders should attend, but that force should not be used to ensure their attendance.

38. Some thought that illness might legitimately excuse attendance - provided that the illness is genuine and serious ("they need to go to court even if they are feeling a bit sick"). Hearing judgement could be required online, even if the offender is sufficiently ill to excuse attendance in person. Under some circumstances, a judge could visit the prisoner where they are, so that they still hear the sentence and judgement in person.

39. As one pupil put it, you should have to attend to face the judgement against you, whether you or your crime are big or small.

Increased police powers to search premises without a warrant

40. This change was considered by one of our three pupil groups. Pupils were divided in their view on this change, with a high proportion saying they were unsure. Pupils were marginally against the increased power – but only by one vote.

41. The main reasons given for opposing the change were concern at increased risk of invasion of privacy, and the need for the 'reasonable belief' of a senior police officer that stolen goods or drugs are on particular premises to be very strongly grounded on sound reasons – which is what the independent granting of a search warrant checks.

42. There was also a clear view that if getting a search warrant is likely to delay police actions seriously, then attention should be given to speeding up the process of seeking and granting warrants.

43. As one pupil summed it up, "pros: crimes can be solved quicker. Cons: there's nothing stopping unnecessary invasion of privacy".

Expansion of the use of polygraph testing

44. Again, this was considered by one of our three groups. They were **strongly in favour of the increased use of polygraph testing**.

45. However, those in this group registered clear concerns about over-reliance on polygraphs, primarily on grounds of lack of reliability as definite evidence of untruth, with concern that some criminals may be able to train themselves to control their own stress responses enough to foil a polygraph, and that many innocent people may display stress in response to worrying lines of questioning in a stressful situation.

46. One pupil however commented that a polygraph might "scare people into telling the truth".

Measures relating to "nuisance begging" and "nuisance rough sleeping"

47. This was the third provision to be considered by just one of our three groups. **Pupils were very uncertain about the new measures, albeit replacing existing 200-year-old legislation.** Out of a group of 24, 9 said they were uncertain, 7 were in favour of the measures, and one more, 8, were against them.

48. They were concerned that begging and rough sleeping should not be made so difficult that they effectively become offences as such, and that the legislation should make help for rough sleepers mandatory. It was also said that the built environment creates an "anti-homeless architecture" with a lack of support to sleep safely.

49. The following sum up the pupils' view: "beggars and rough sleepers are annoying, but they could just be innocent people like you and me who have had a bad life"; "if they are actively harassing people they should be punished in some way, but if they just exist that is fine".

Reducing the lower age for issuing Community Protection Notices from 16 to 10

50. We asked all three groups for their views on this provision in the Bill. All would be affected by the change; 72 of the 85 pupils were aged 10 to 16, and 13 were aged 9 and within months of reaching the age of 10.

51. We do not know the extent to which the Committee will be apprised of the directly expressed views of children and young people in the age groups which would be affected by this change, but I hope that the evidence of their views in this submission will be of both interest and help to the Committee.

52. We asked pupils whether or not they agreed with the UK government that a child of 10 can differentiate between behaving badly and serious wrongdoing.

53. By a narrow margin (39 votes to 36), pupils agreed that a 10 year old can tell the difference between right and wrong, and between bad behaviour and serious wrongdoing, (10 abstained). Therefore 46% of all the pupils, and 52% of

those voting, agreed that a 10 year old can tell these differences.

54. However, **pupils voted very strongly AGAINST lowering the age for issuing Community Protection Notices from 16 to 10**. 57 voted against, 23 in favour, with 5 abstentions.

55. The overall view is represented in these two pupil quotes about 10 year olds: "children that young still are influenced, especially whilst ' having fun'"; "10 year olds are still children at the end of the day".

56. The key issue for pupils on this issue was that for many, lowering the age to 10 goes too far. Amended ages were proposed in all three groups. **The main proposal in all three groups was to lower the age to 13 rather than 10**, representing the start of teenage years, capturing the age range under 16 that is more likely than the 10, 11 and 12 year olds to engage in antisocial wrongdoing, and being the age by which young people should be established in secondary education.

57. There was also a proposal to lower the age to 12, as this is generally the age at which children have completed the major transition from primary to secondary education.

58. **In one group we tested the strength of support for amending the Bill to lower the age to 13 rather than 10, and this amendment was passed by 28 votes to 6**.

59. There was a proposal that as well as lowering the general age for Community Protection Notices, a Notice should be issued to a child aged 10 to 12 IF the individual child is considered able to differentiate right from wrong and between behaving badly and antisocial wrongdoing.

60. Pupils also proposed a warning system for those under 13, including letters to parents, and a scale of fines rising in proportion to age. It was also seen as appropriate to require younger children to contribute effort to put right the results of antisocial behaviour, such as cleaning off their graffiti.

61. A proposal was made to introduce curfews for younger offenders, in place of Community Protection Notices.

62. One concern expressed in relation to lowering the age for Community Protection Notices was that as these are backed by fines, this would result in fines having to be paid by parents rather than by offenders themselves.

63. There was a clearly expressed minority view that "everyone should get a Notice if doing harm, regardless of age". A few thought that if 10 is the age of criminal responsibility, it should also be the age to which a Community Protection Notice can be issued: "if a child can be held responsible for a crime they should also be held responsible for damage to a community/area".

64. An associated view from some was that "justice should be swift" with strong consequences for antisocial behaviour as soon as it is shown, and that waiting until 16 before such behaviour incurs strong legal consequences can result in "an irreversible criminal attitude" and "let crimes develop into more serious actions".

65. The overall strong message to the Committee from these children is that it is probably correct to say that a 10 year old can differentiate right from wrong and bad behaviour from serious wrongdoing, but that the age for receipt of a Criminal Protection Notice is separate from the age of criminal responsibility, and should be lowered from 16 to 13, with a warning system introduced for antisocial behaviour committed by children aged 10 to 12.

A FINAL WORD

66. The Committee may be gratified by the statement on human rights made by one pupil who, on learning of their existence and role, stated that "overall I think that the Human Rights Committee is a good idea!"