



Standing Committee for Youth Justice

SCYJ Submission to Consultation on Knife Crime Prevention Orders Guidance

The Standing Committee for Youth Justice (SCYJ) is an alliance of over 60 not-for-profit organisations campaigning for improvements to the youth justice system in England and Wales. Our [members](#) range from large national charities to grassroots service providers.

Key points:

- The SCYJ and our members would strongly recommend that the Home Office publishes separate and distinct KCPO guidance for children.
- Examples should accompany the guidance of what these orders might look like for defendants aged under 18, in line with their intended use for preventative purposes.
- A process diagram (in the form of a flow chart or similar) to accompany the guidance would also be very helpful. This should clearly outline the stages of the process, identifying key tasks and decision points, responsible owners and timescales.
- Safeguarding of children and young people must be of paramount importance. There must be more clearly stated guidance around how local multi-agency safeguarding partnerships should inform the KCPO process, in order to protect children from harm.
- This must include guidance to ensure an assessment of any need for a referral to children's social care services for an assessment under the Children Act 1989; and for an assessment of any need for a referral to the National Referral Mechanism for an assessment under the Modern Slavery Act 2015. If a child is in care, consultation with children's services should be mandatory.
- As the organisations with the necessary expertise, the assessment and views of the local Youth Offending Service and children's services must be considered at every stage of the process and clearly represented to the court.
- Guidance should make clear that attempts to engage a young person in preventative and diversionary activities on a voluntary basis must be fully explored prior to an application for a KCPO being considered. There is a growing body of evidence that diverting children away from the formal youth justice system is more effective at reducing offending than any punitive responses¹ and opportunities for diversion should be continuously explored.
- Further clarity is needed on the evidence base required for the imposition of an order, given it can be imposed on a balance of probabilities. The evidential test for the KCPO appears to be far too wide and is open to abuse. This needs to be much clearer and justified, given the potential disproportionate harm caused to young people.
- More clarification is needed for '*relevant organisations and community groups*' - many of these organisations will be SCYJ members. This is particularly important given their concerns about the introduction of KCPOs and the roles that they might be expected to play in their implementation.

¹ See for example Wilson, D., Brennan, I., and Olaghery, A. (2018) *Police-initiated diversion for youth to prevent further delinquent behaviour* Campbell Collaboration <https://campbellcollaboration.org/library/police-initiated-diversion-to-prevent-future-delinquent-behaviour.html>; and Lesley McAra's essay in NAYJ (2018) *Child-friendly youth justice? A compendium of papers given at a conference at the University of Cambridge in September 2017* <http://thenayj.org.uk/wp-content/uploads/2018/05/NAYJ-Child-friendly-youth-justice-May-18.pdf>



The following sets out our response to the consultation on the Knife Crime Prevention Orders (KCPO) Guidance, as it affects children (under 18s). For ease of reference, we have outlined our commentary using the same section headings and subheadings, where relevant, as the guidance document itself.

1. Introduction

1.1 Background

- We fully support the vision outlined in the National Strategy for the Policing of Children & Young People² by the National Policy Chiefs' Council (NPCC). This sets out the principles of child-centred policing:
 - having regard to safety, welfare and well-being of children and young people
 - protection from harm
 - taking full circumstances of the child into account
 - positive engagement
 - Listening to and respecting children and young people
 - keeping children out of the criminal justice process unless necessary
- SCYJ welcomes the government's commitment to tackling serious violence. We welcomed acknowledgments earlier this year of the need to shift focus from a punitive response towards early intervention, prevention and promoting a multi-agency, whole-system approach and would encourage the government to continue to work with the sector to achieve this.
- However, we have concerns that existing commitments do not go far enough; are not always grounded in evidence of what works around violence prevention and rehabilitation of children; and will result in more children being criminalised and deprived of their liberty.
- We are disappointed that the government response falls short of constituting a public health approach. We do not feel there is a cohesive, cross-government, overarching strategy with clear leadership and long-term commitment.
- Recent investments set out in the serious violence strategy are of course welcome. For example, the launch of the Department for Education Tackling Child Exploitation Support Programme is a positive step.
- However, more funding is needed. The limited resources are mostly focused on targeted interventions. This investment is crucial, and many of our members run effective programmes of this type. But there must also be funding directed to grass-roots organisations and communities where relationships are already held with the most socially excluded children and young people who are most affected by serious violence. The government should also invest more money directed towards prevention and early years interventions. This would more closely represent a genuine public health approach, ensuring children of all ages are provided with the support they need to stay away from serious violence, as well as helping to eliminate the climate in which violence breeds.
- The Youth Violence Commission identified root causes of youth violence as including trauma; inadequate state provision; poverty and social inequality.³ A (perceived) lack of opportunity can lead to "the development of criminal careers...as a way of satisfying material aspirations".⁴

²<https://www.npcc.police.uk/documents/edhr/2015/CYP%20Strategy%202015%202017%20August%202015.pdf>

³ Youth Violence Commission (2018) *Interim Report – July 2018* The Youth Violence Commission
<http://yvcommission.com/wp-content/uploads/2018/07/Interim-Report-FINAL-version-2.pdf>

⁴<https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/YP%20knives%20and%20guns.pdf>



- The government must acknowledge the impact funding cuts, across all parts of the public sector, have had on capacity across society to prevent and tackle serious violence, and take steps to reverse this.
- Partnerships between the young people, affected communities and services need to be formed so that practitioners and interventions 'do with' rather than 'do to'. In our members' experience, approaches informed by co-production and supported by evidence can promote sustainable community engagement, which increases the likelihood of achieving positive outcomes.
- The recent introduction of a legal duty on agencies to share information and work together to combat serious violence, while the intention is understandable, could have a number of unintended consequences for both children and the agencies involved.⁵ Implementation of a new duty without additional resources or definitive guidance is wholly inappropriate for services already tasked with rising demand, crisis management options and low retention of staff. It is unclear whether the government has considered how the creation of this duty will fit within other recent policy developments, such as KCPOs (see below) or the Domestic Abuse Bill. It also has the potential to undermine trust between professionals and young people. The decision to share information would be better made in 'the best interests of the young people', rather than a legal duty to do so.
- BAME children are disproportionately represented in the criminal justice system. The government response is not doing enough to address this and a focus on punitive rather than preventative approaches to addressing serious violence is likely to exacerbate disproportionality. Recent evidence now suggests black people are 40 times more likely to be stopped and searched.⁶ Although a very small proportion of stop and searches find evidence of any crime, because weapons are generally hidden about the person, they are more likely to be found via these methods. Black children are therefore more likely to be caught and prosecuted for possession, whether or not they are more likely than their white counterparts to be carrying a weapon.
- The focus on stop and search is damaging trust and relationships between communities and police, which are already strained,⁷ and will have consequences for effective policing. There is no evidence that stop and search works strategically to tackle knife crime.⁸ The government's own serious violence strategy recognised that there is no evidence that the recent fall in stop and searches contributed to increasing violent crime. While recent announcements about extra police funding are welcome, we would like to see a commitment to directing resources away from stop and search, towards more effective interventions and community policing.
- Clauses in the Offensive Weapons Act will increase the number of children sent to custody and may lead to disproportionate sentences.⁹ We are particularly concerned about the increased use of mandatory minimum custodial sentences for children. As outlined above, these punitive responses will not be effective and may also contribute to young people's experience of being 'the problem', rather than addressing the contextual issues that contribute to knife crime.

⁵ See our full response to the consultation here: <http://scyj.org.uk/wp-content/uploads/2019/05/SCYJ-Response-Home-Office-Public-Health-Duty-Consultation-2019.pdf>

⁶ <https://www.theguardian.com/law/2019/may/04/stop-and-search-new-row-racial-bias>.

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

⁸ <https://www.college.police.uk/News/College-news/Documents/Stop%20and%20search%20-%20Less%20crime%20-%20Report.pdf>

⁹ See our full evidence submission here: <http://scyj.org.uk/wp-content/uploads/2018/09/FINAL-SCYJ-Offensive-Weapons-Bill-evidence-submission.pdf>



Concerns relating specifically to KCPOs

- A particularly concerning element of the Act is the introduction of KCPOs, which can be imposed on children as young as 12 on the basis of probability and are highly likely to be net-widening, labelling, and impose more criminal sanctions on vulnerable children and young people.¹⁰
- The severe, lengthy and potentially unlimited restrictions that can be imposed as part of an order, and the punishment for breach of up to 2 years in custody, are inappropriate, particularly given the standard of proof required.
- These Orders were added to the Offensive Weapons Bill as a last-minute amendment and did not receive the level of consultation, parliamentary scrutiny, or impact assessment appropriate for legislation with such wide-reaching potential.
- Despite a wide coalition of professional bodies and voluntary sector organisations expressing strong reservations about the Orders, the Home Office pushed them through.
- There is no evidence that orders like these are effective at tackling harmful behaviour or will address the root causes of knife carrying.
- We remain extremely concerned that these civil orders are to be imposed on children as young as 12 on the basis of probability rather than a criminal standard of proof. This is despite the severe, lengthy and potentially unlimited restrictions which could be imposed as part of an order, and the punitive criminal sanctions for breach of up to 2 years in custody.
- As such, these orders are highly likely to be net-widening, labelling, disproportionately impact BAME communities, and impose more criminal sanctions on vulnerable children and young people.
- The orders have not been subject to any kind of meaningful public consultation, up to this point. Key stakeholders, including the Youth Justice Board, the Children's Commissioner, the prison service, magistrates, local government and children's services were not given any kind of input on the development of KCPOs prior to their introduction to the Offensive Weapons Bill. KCPOs were also not included as part of the government's serious violence strategy.
- Where are the voices of those who are most likely to be directly impacted by the orders? Young people who are affected by violence need to have a say and be listened to when developing 'solutions' to issues that affect them. It is of great concern to us that young people have not been consulted at any stage of this process. This underlines the importance of undertaking this work during the pilot period, to inform the decision to roll out the orders nationally.
- A wide coalition of professional bodies and voluntary sector organisations working for and on behalf children and young people in the criminal justice system have expressed strong reservations about the orders, including the Magistrates' Association,¹¹ the Association of Youth Offending Team Managers,¹² the Local Government Association,¹³ the Probation Institute,¹⁴ and the Children's Society.¹⁵

¹⁰ See our briefing here:

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Parliament/Offensive%20Weapons%20Bill%20HoL%20Report%20Stage.pdf>

¹¹ <https://www.magistrates-association.org.uk/News/MA-position-statements>

¹² <http://aym.org.uk/news/>

¹³ <https://www.local.gov.uk/sites/default/files/documents/06022019%20Offensive%20Weapons%20Bill%20HL.pdf>

¹⁴ <https://www.thetimes.co.uk/edition/comment/times-letters-importance-of-beauty-in-new-developments-zr90smw7r>

¹⁵ <https://www.childrensociety.org.uk/sites/default/files/knife-crime-prevention-orders-parliamentary-briefing.pdf>



- Strong objections to the order were also made on human rights grounds, including by the respected charities Liberty and Justice. The Parliamentary Joint Committee on Human Rights wrote to the Home Secretary expressing concern that KCPOs “may criminalise children who have no previous criminal convictions, not for carrying a knife (which is already against the law), but for breaching 2 requirements which could be imposed in ways which prevent them conducting a normal life.”¹⁶
- Children and young people carry weapons for numerous and complex reasons, often including the perception it is necessary for self-protection.¹⁷ Where a child is carrying a weapon because of fear for their own safety, and especially if they perceive other forms of protection such as the police to be unavailable to them, punitive orders and the threat of custody will not discourage them from carrying a knife.
- As a result of these orders, more children and young people will end up with criminal records, further marginalising them and preventing them from accessing legitimate mainstream employment opportunities.
- There are intervention options already available that could be developed without having to resort to restrictive and criminalising orders. Many youth offending teams (YOTs) already have programmes to address knife carrying and the Youth Justice Board is currently considering how to develop and share best practice. Many voluntary and community sector organisations also work with young people on a voluntary basis, rather than coercion, increasing positive opportunities and addressing issues of conflict resolution and violence reduction, as well increasing positive opportunities, working with children and young people on a voluntary basis rather than through coercion. It would be better to invest in and support a range of these interventions, which will educate and support the children.
- We are very concerned that these orders would further exacerbate racial disparity in the criminal justice system. BAME people in the criminal justice system are subjected to conscious and unconscious biases, which means they may be disproportionately impacted by the introduction of more subjective tests, such as orders imposed on the basis of likelihood of someone carrying a weapon. The introduction of these orders is likely to damage already strained relations between BAME communities and the police, and damage trust in the justice system. Despite these concerns, the government has not published any equality impact assessment of the orders.
- There is no detail on how KCPOs are going to be resourced or how much they will cost. The Local Government Association has raised concerns about the ability of local authorities to resource the new orders. The Police Federation of England and Wales has questioned the capacity of the police to enforce the orders given the impact of cuts to police budgets and resources. The cost of the likely increase in custody numbers due to breaches of these orders is also not factored in.

1.2 Terminology

No comments in this section.

¹⁶ <https://www.parliament.uk/documents/joint-committees/human-rights/correspondence/2017-19/Home-OfficeMinister-Offensive-Weapons-Bill.pdf>

¹⁷ Palasinski, M., and Riggs, D. (2012) Young White British Men and Knife-Carrying in Public: Discourses of Masculinity, Protection and Vulnerability. Damien Riggs: <http://www.damienriggs.com/blog/wpcontent/uploads/2013/09/Young-white-British-men.pdf>



1.3 Purpose of Guidance

In addition to the intended use by the Police and the Crown Prosecution Service, the guidance states that:

“KCPOs will require a multi-agency approach. The police are expected to work with relevant organisations and community groups to support those who have been issued with a KCPO to steer away from crime. All will have a role to play to ensure that KCPOs are the preventative tool that they are intended to be. This guidance is therefore also aimed at those who are involved in the management and review of KCPOs.”

The SCYJ supports a multi-agency response to prevention of violence and other serious crime. However,

- It is important to note that many of the member organisations of the SCYJ are precisely those that work with young people affected by violence in our communities. It is the view of many of these organisations that KCPOs will not be preventative and will have a raft of negative, unintended consequences for children and young people.
- We do not believe that there is sufficient clarification within this guidance for ‘*relevant organisations and community groups*’, which is particularly important given their concerns about the introduction of KCPOs and the roles that they might be expected to play in their implementation.
- Such organisations frequently do not have the capacity to take on additional work without increased resources and may accordingly have to choose between existing preventive programmes and supporting KCPO.
- Youth offending teams are named specifically throughout. However, due to the reductions in grants to YOTs from the YJB since 2010/11 additional resources will be required to meet this new work.

2. Application

2.2 Other than on conviction

- The guidance should make clear that attempts to engage a young person in preventative and diversionary activities on a voluntary basis must be fully explored prior to an application for a KCPO being considered.
- This is an extremely important stage in the process for under 18-year-olds that must not be missed in the pursuit of applying for a KCPO.
- A concerted and coordinated effort, from a range of local partners, to engage a young person voluntarily should be treated as an absolute priority to avoid the unnecessary use of civil sanctions and potential resultant criminalisation.
- This would be consistent with the NPCC National Strategy for the Policing of Children & Young People¹⁸ and would demonstrate that a truly preventative approach was being pursued by police and their local partners to divert young people from the criminal justice system and supporting them into positive opportunities.

¹⁸<https://www.npcc.police.uk/documents/edhr/2015/CYP%20Strategy%202015%202017%20August%202015.pdf>



The guidance states that:

“...the court must be satisfied, on the balance of probabilities (the civil standard of proof, that the person has, on at least two occasions in the relevant period, had a bladed article with them in a public place, on school premises or on further education premises without good reason or lawful authority. A bladed article is an article to which section 139 of the Criminal Justice Act 1988 applies and the relevant period is two years preceding the date on which the order is made.”

- There is no detail given on the evidence base required for the imposition of an order, given it can be imposed on a balance of probabilities.
- This is particularly concerning given the lengthy “relevant period” of two years over which evidence can be considered.
- This is likely to lead to orders being imposed on a subjective and unspecified basis, with the potential to increase disproportionality due to conscious or unconscious bias.
- It is not clear what forms of evidence would justify an application for a KCPO, but that would not also constitute a criminal offence (and the opportunity for criminal justice intervention where that is considered appropriate). Further clarity is needed in this regard.
- Would it be possible to provide some examples of evidence or scenarios in this context that would satisfy this standard of proof?

2.4 Without notice

- Under what circumstances would an application without notice be deemed to be necessary and what evidence would need to be produced to substantiate this?
- There is no requirement for an applicant or court to “consult” with a youth offending team prior to the introduction of an interim order. This may lead to situations where interim orders are imposed on children which actively put their welfare at risk. For instance, a curfew restriction could be imposed which potentially increases the risk of a child’s exposure to abuse or neglect in the home, or obstructs education or employment.

2.5 Interim KCPO without notice

- The guidance should recommend a guideline for good practice that an interim KCPO should have effect for a period not longer than 28 days after the order takes effect.
- What is the guidance for informing the defendant about the prohibitions within an Interim KCPO without notice?
- For those aged under 18, what is the guidance or suggested good practice for consulting the local YOT and other local partners about the prohibitions of an Interim Order?



2.7 Applying for a KCPO against a defendant aged under 18

- We contend that twelve is far too young for the imposition of such an order, particularly as there is no separate and distinct provision for children.
- A number of reports, including by the Children’s Commissioner¹⁹ and the National Crime Agency²⁰ have recently warned of the scale of children being groomed into criminal activity. Ofsted²¹ recently reported that for children at risk of knife carrying, “the highest level of risk is for those children who have been groomed into gangs, for the purposes of criminal exploitation.” These reports should be highlighted in the guidance and serve as a warning not to pursue additional powers that risk criminalising these children without sufficient safeguards being in place to protect them.
- Looked after children are disproportionately represented in the criminal justice system and are especially vulnerable to grooming and criminal exploitation.²² A recent inquiry for the APPG on missing children found that numbers of ‘out of area’ placements have soared and are placing vulnerable children at further risk.²³ It is crucial that prohibitive requirements in KCPOs do not restrict these children from where they consider to be ‘home’ and criminalised at a disproportionate rate.
- The Newham Safeguarding Children Board Serious Case Review²⁴ for “Chris” for example, reports that “there was a tendency to view risk-taking adolescent behaviour primarily through the lens of offending and harmful peer groups through the lens of gangs, distorting understanding and responses”. These included signposting to Youth Offending teams rather than carrying out holistic assessments, which take into account a child’s experiences.
- The current requirement that a person seeking to impose an order on an individual who is under 18 must “consult” with the local youth offending team is not a sufficient safeguard to ensure that the full circumstances are taken into account, including any safeguarding and/or welfare concerns, including any risks of exploitation of the young person.
- Anti-social behaviour orders contained a similar duty as KCPOs for applicants to consult with youth offending teams in cases where the defendant is aged under 18. However, in practice, YOTs were not routinely consulted.
- The Home Affairs Committee, for example, in its 2005 inquiry on anti-social behaviour, noted that, “*There is a clear need for youth offending teams to be involved in the response to young people who behave anti-socially—especially when formal measures are used. We were concerned to learn that Youth Offending Teams are not always consulted by those taking out an ASBO. We believe that they should be consulted as a matter of course before an application for an ASBO is made: not as a veto, but to ensure that sufficient thought has been given to support needs and to ensure that other measures are also taken if appropriate.*”²⁵
- It has been demonstrated in recent practice in the application of Antisocial Behaviour Injunctions and Criminal Behaviour Orders that this is often a cursory ‘consultation’,

¹⁹ <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/02/CCO-Gangs.pdf>

²⁰ <http://www.nationalcrimeagency.gov.uk/news/news-listings/1586-nearly-7-000-potential-victims-of-slavery-andtrafficking-reported-in-2018>

²¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785055/Knife_crime_safeguarding_children_and_young_people_110319.pdf

²² Day, A., Bateman, T. and Pitts, J. (forthcoming) *The Pathways Into and Out of Custody for Children in Care*. Luton: University of Bedfordshire.

²³ <https://www.childrensociety.org.uk/sites/default/files/no-place-at-home.pdf>

²⁴ <http://www.newhamscb.org.uk/wp-content/uploads/2018/10/Serious-Case-Review-Chris-.pdf>

²⁵ <https://publications.parliament.uk/pa/cm200405/cmselect/cmhaff/80/80.pdf>



rather than a meaningful exercise, and in some cases YOTs have not been consulted.

- The Youth Justice Legal Centre advice line has received enquiries from YOTs in different areas of the country with real concerns about the implications of these types of orders on already vulnerable young children, but find themselves in contention with the local police and CPS.
- The applicant and the Court must have as much information as possible to assist them in making important decisions about individual young people when deciding whether or not to impose such an order and as such, the court should require a pre-injunction report from the YOT and all children should be assessed to check that they have not been subject to grooming or exploitation before an order is imposed.
- We would recommend requiring an assessment by the YOT and time to complete such an assessment should be accounted for by the police before making such an application. In each case, the court should require a pre-injunction report and all children should be assessed to check that they have not been subject to grooming or exploitation before an order could be imposed.
- The guidance must strongly emphasise the need for a full assessment of the young person, an analysis of their circumstances and risks and the involvement of parents and carers in those circumstances, plus any background to the concerns around knives and the circumstances of the young person that may be considered relevant.
- The recommendation that children's services are consulted should be strengthened in the guidance. If a child is in care, consultation with children's services should be mandatory.
- There should also be clearly stated guidance around an assessment of any need for a referral to children's social care services for an assessment under the Children Act 1989; and for an assessment of any need for a referral to the National Referral Mechanism for an assessment under the Modern Slavery Act 2015.
- Furthermore, there is no provision for a youth offending team to be consulted on the content of requirements.
- Given the previous experience with similar orders regarding the lack of effective engagement with YOTs, and the particular safeguarding and welfare needs associated with children involved in knife possession, including risks of criminal exploitation, we remain of the view that it would have been better to require a statutory mechanism for ensuring proper engagement with YOTs rather than on relying on guidance and "messaging". The guidance in this respect needs to be strengthened, and engagement with YOTs and children's services should be a specific focus of plans around data collection, monitoring and evaluation, as well as a specific area to be covered and scrutinised via the requirement to report to Parliament.
- It should be made clear that, as the organisations with the necessary expertise, the assessment of local children's services and the Youth Offending Team should inform the decision to apply for a KCPO, as well as their assessment of the suitability of prohibitions and requirements, and be included in the evidence provided to the court as part of any application.



3. Provisions of a KCPO

- It would be extremely helpful for the Home Office to provide some examples of what these orders might look like for defendants aged under 18, as appendices to the guidance.
- We would encourage the inclusion of examples of KCPOs, in line with potential scenarios of their intended use for preventative purposes. These examples should outline details of information sharing arrangements between local partnerships; relevant assessments completed by YOTs and children's services; evidence of attempts to engage a young person in preventative and diversionary activities prior to an application; evidence in support of an application; and details of the orders including duration, prohibitions and positive requirements.

3.1 Prohibitions

- Restrictions placed on young people in relation to location, relationships with peers and certain activities are not an evidence-based or effective approach to reducing serious youth violence. Such restrictions can contribute to a sense of isolation, not taking part in positive activities and restricting young people from accessing support services.
- The statutory guidance on inter-agency working to safeguard and promote the welfare of children²⁶ now includes guidance around 'contextual safeguarding' that incorporates extra-familial, peer group and community factors.
- In recent years there has been innovative, emerging research and practice around approaches to adolescent safeguarding that work within the peer context, as opposed to disrupting and restricting it. It is vital that KCPOs designed to disrupt the behaviour of individual young people do not undermine these approaches.
- It is our belief that, as with requirements applied to a KCPO, a full assessment should be carried out prior to any prohibitions being applied. Without such an assessment, unnecessary prohibitions could be applied which could result in unintended consequences which could result in a child being vulnerable or placed at disadvantage.
- The draft guidance stresses that "Care must be taken that prohibitions or requirements avoid conflict with religious beliefs of the defendant, their work or educational commitment" - however, it does not mention other protected characteristics or groups for whom reasonable adjustments should be made to prohibitions in line with equalities legislation.
- We recommend amending this section to make clear that the imposition of a prohibition without reasonable adjustments, where necessary, is not an option.
- All prohibitions available to magistrates should be set out with reference to specific questions that should be asked for vulnerable people.
- For example, if giving an exclusion order for someone with caring responsibilities, due care should be taken to ensure that any prohibitions imposed do not interfere with those responsibilities.
- We further note that imposing onerous bans on association or exclusion zones over a significant duration are likely to be particularly difficult for many children and young people to comply with and risk setting them up to fail.
- The experience of our members is that prohibitions often lead to resentment and repeated breaches. These children often have multiple and complex needs, and

²⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf



this will be viewed as another negative and punitive intervention, working against them as opposed to supporting them. It will also have the unintended consequence of more children being arrested and detained in police cells.

3.2 Positive requirements

Requirements imposed by KCPOs are unspecified and who will monitor them is not adequately addressed by the guidance.

- Requirements are not specified, leaving children subject to a potentially unlimited and unspecified number of potentially unreasonable and disproportionate requirements over a lengthy duration of up to two years. To ensure transparency and oversight, these should be specified in the guidance.
- The information included in this section regarding the importance of adapting requirements to the circumstances of the individual and taking account of protected characteristics is welcome as far as it goes.
- However, we recommend strengthening this section to make clear that the imposition of a positive requirement without reasonable adjustments, where necessary, is not an option. All requirements available to magistrates should be set out with reference to specific questions that should be asked for vulnerable people.

3.3 Supervision and compliance

- Responsibility for who monitors compliance with the requirements is not specified and can be assigned to “an individual or an organisation”. This could include children’s and youth services and voluntary sector organisations delivering interventions for children and young people. It is also unclear whether this could be assigned to the local youth offending service.
- It is unclear when, how and by whom the decision would be taken as to who the “individual or organisation” is chosen, and how their work would be funded.
- The new orders could place the providers of interventions for children and young people in the invidious position of having to police and monitor children and young people for compliance with the new orders. This goes against the voluntary engagement which characterises the ethos of many of these organisations. This could seriously undermine trust and their effective engagement with children and young people.
- This model could pose a range of issues for VCS organisations, who do not normally work in such a capacity, in terms of confidentiality, trust and relationship building with young people.²⁷
- The resources that would be required in order for voluntary sector organisations to fulfil this role are unlikely to be available, given that most charitable organisations are funded by restricted funds, that do not allow for additional resources to manage this type of supervisory oversight, as an additional task.
- Grass-roots organisations are working in the context of decreased funding and increased demand. We should be investing in developing opportunities for positive activities and resourcing communities to come together, as they are the ones with the knowledge and solutions to the problems they face.

²⁷ See Valuing Youth Diversion: A Toolkit – Centre for Justice Innovation for more information on evidence and studies around system contact <https://justiceinnovation.org/sites/default/files/media/documents/2019-02/valuing-youth-diversion-a-toolkit-1.pdf>



- The ability of youth justice services to intervene early once a child becomes involved in knife crime and prevent reoffending is also being limited in a situation where youth justice practice grants provided to Youth Offending Teams (YOTs) have been cut by more than half, from £145m in 2010/11 to £72m in 2017/18.²⁸
- Furthermore, agencies' capacity can also be too constrained to intervene when children are identified as in need of safeguarding. Spending on non-statutory services has fallen sharply²⁹ and available interventions are more limited in scope and short-term, often offered only once a child has reached crisis point. Despite schools and other agencies frequently making referrals for support³⁰, the ability to protect children from harm was undermined by the short-term and 'reactionary' nature of interventions.
- Children who carry weapons often do so because they perceive themselves as unsafe, thus they carry a weapon as self-defence. As the number of vulnerable children lacking the support necessary to protect and divert them away from crime increases and knife carrying increases, so does the level of contagion. In some communities, knife carrying is increasingly seen as the social 'norm', and therefore becomes more widespread as others seek to protect themselves.
- The requirement to monitor the child's compliance with a KCPO should not be considered an easy task and in some cases could be quite burdensome.
- Notifying the "*appropriate chief officer of police that the defendant has complied with all of the relevant requirements in the KCPO or, should it be the case, that the defendant has failed to comply*" will require the 'specified person' to make a statement, but if this is contested in court by the defendant, that person or their organisation may also require legal representation which will incur additional costs.
- The guidance should include how arrangements for the transfer of supervision should be made if a young person moves to another area, and specifically in the case of looked after children. We would recommend that this should trigger a review meeting in order to reassess the supervisory arrangements and the requirements of the order.

4. Duration of a KCPO

- Where the defendant is under 18, the YOT should always be consulted on the appropriate duration of the order, which should be regularly reviewed.
- The SCYJ recommends that the guidance should include an assumption, where the defendant is under 18, that the prohibitive provisions of a KCPO would not exceed 6 months – given the intended purpose is largely about education and prevention.
- Imposing onerous requirements over a significant duration is likely to be particularly difficult for many children young people to comply with and risk setting them up to fail.
- It would also be out of step with the likely duration of a community order issued by a court should a young person be sentenced for similar behaviours or breach of a court order.

²⁸ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-05-09/252658/>

²⁹ <https://www.nao.org.uk/wp-content/uploads/2019/01/Pressures-on-Childrens-Social-Care-Summary.pdf>

³⁰ <http://croydonlcsb.org.uk/wp-content/uploads/2019/02/CSCB-Vulnerable-Adolescent-Thematic-Review-PUBLISHED-Feb-2019.pdf>



5. Service of a KCPO

5.1 Serving the KCPO on the defendant

The guidance states that:

“It is essential that the defendant understands the nature and precise details of the terms and the specific provisions of the Knife Crime Prevention Orders (KCPO) and the terms are explained in ordinary language.”

- Given that KCPOs can be served on children as young as 12 years old, we have serious concerns about the provisions that will be put in place to ensure children, particularly those with developmental needs, are able to fully understand the conditions of their KCPO.
- There is ample evidence that children in contact with the criminal justice system are vulnerable. By definition, they are vulnerable due to their young age and developmental immaturity. This is often compounded by difficulties including trauma and adverse childhood experiences (ACEs), mental and physical ill-health, special educational needs, literacy and communication difficulties and more:
 - The rate of mental health problems amongst children in trouble with the law is thought to be at least 30%, and three times higher than within the general population (Hagell 2002, Jacobson et al, 2010: 68).
 - Children with special educational needs are twice as likely to carry knives as their peers³¹
 - One-third of young people in custody have identified special educational needs (Gyateng et al, 2013)
 - 60% of children who offend have a communication disability (Bryan et al, cited in RCSLT, 2009)
 - Around 30% of children who have ‘persistent offending histories’ in custody have IQs of less than 70, signifying a learning disability (Rayner et al, 2008, cited in Hughes et al, 2012: 26).³²
 - There is increasing understanding about the prevalence of different types of traumatic childhood and adolescent experiences in the backgrounds of children involved in the youth justice system³³, the effects that such trauma can have in the short-term, and its longer term impacts on emotional, social, and neurological development. There are evident links between trauma and young people’s behaviour, including the extent of their capacity to comply with youth justice interventions.³⁴
 - There is evidence that children frequently do not understand court proceedings and are unclear about the expectations of any court order. This lack of understanding was a feature of ASBOs: research confirmed that children often did not understand the conditions of their order or how to comply with it. Without this, the likelihood of learning and sustained behavioural change is arguably remote.³⁵

³¹ <https://schoolsweek.co.uk/fact-check-what-are-the-links-between-school-exclusions-and-knife-crime/>

³² http://michaelsieff-foundation.org.uk/content/inquiry_into_the_operation_and_effectiveness_of_the_youth_court-uk-carlile-inquiry.pdf

³³ See literature review via link here: <https://yjresourcehub.uk/yjb-effective-practice/youth-justice-kits/item/363-yjb-launches-statement-of-intent-for-new-victims-reference-group.html>

³⁴ <http://www.beyondyouthcustody.net/wp-content/uploads/Trauma-and-young-offenders-a-review-of-the-research-and-practice-literature.pdf>

³⁵ http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/02_11_06_asbo_summary.pdf



- We strongly recommend that the guidance should have clearer provisions on the steps that need to be taken to ensure the message is put across effectively to children and young people and their families. For example, will intermediaries be provided for the service of each KCPO notice?
- We believe that a failure to put in place developmentally aware guidelines which ensure people fully comprehend the conditions of the KCPO has the potential to make the orders a discriminatorily criminogenic initiative rather than a preventative one, as the cost of breaching an order can be high and has the potential to inculcate many children and young people.

6. Notification

- We are unsure why the subject of a KCPO should have to notify the police of their name and address when an order is made. Surely in order to apply for such an order these details must be known and prior to a court applying such an order these details should be confirmed?
- What is the guidance for notification to be made to defendants with no fixed address?
- The guidance must make clear how young people will be supported to understand the notification information if they have additional needs.
- What reasonable adjustments will be made to ensure that people with mental health needs, special educational needs, literacy and communication difficulties are able to understand and meet the notification requirements?
- Breach of notification requirements is a criminal offence punishable by up to two years in prison. Therefore, it is vital to ensure that reasonable adjustments are made so that vulnerable defendants are not disproportionately impacted by the provisions.

7. Review

- The guidance should state that an initial KCPO review should take place after 6 weeks. An early review would be an opportunity to review the appropriateness of the provisions of the order, identify any barriers to compliance and to check that the prohibitions and requirements are fully understood by the young person and their supporters – this would be in line with a more preventative approach.
- The guidance specifies that the minimum review period for people under the age of 18 should be “more frequent” than 12 months but provides no further information on how courts should decide on an appropriate review period.
- We recommend that YOTs are consulted on the appropriate review period for defendants under the age of 18.
- Provision should also be made for reviews to be brought forward if a change in the circumstances of the individual make this necessary and / or appropriate.
- There should be an option for the reviews to consider whether the duration of the order can be shortened, based on positive action and adherence to requirements.

8. Appeals

- SCYJ would seek clarification on whether or not legal aid is afforded to children appealing the imposition of a KCPO, particularly those made without conviction?



9. Breaches

9.1 Offences

- In determining whether an offence has been committed as a consequence of breaching the requirements of an order, it is vital to consider the welfare needs of the child and the importance of minimising youth justice system contact. There is a growing body of evidence that diverting children away from the formal youth justice system is more effective at reducing offending than any punitive responses.³⁶
- In addition, the guidance should explicitly make clear that the failure of a court to make reasonable adjustments to the provisions of an order should be taken into account when considering if a defendant has committed an offence as the result of the breach of an order.
- In line with the UK's commitments under the United Nations Convention on the Rights of the Child (UNCRC), the best interests of the child must be prioritised, considering their welfare needs first and foremost.
- The Children Act 1989 states that: *When a court determines any question with respect to: (a) the upbringing of a child; or (b) the administration of a child's property or the application of any income arising from it, the child's welfare shall be the court's paramount consideration.*
- Section 44 of The Children and Young Person's Act 1933 states that: *Every court in dealing with a child or young person who is brought before it, either as . . . an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.*
- Children must not be unnecessarily criminalised, marginalised, and deprived of their liberty. They must be supported to move away from violence, and the response must consider not just the child but the whole family and community.³⁷ It is vital that investment is made into Youth Offending Teams, so that children have access to support and tailored rehabilitative programmes.
- Opportunities for diversion should be continuously explored throughout the child's involvement with the law, not just at the first instance, and should be available to a wider set of children than current practice allows. Consideration should be made to the fact that unconscious or conscious biases, or structural factors, may impact a child's likelihood to be diverted.
- Children's active participation should be encouraged, as well as engagement from the child's family. Interventions should focus on promoting their strengths and capacities. There is widespread evidence for the centrality of a meaningful, trusting supervisory relationship to effective supervision.³⁸ Many SCYJ members very effectively run programmes such as those described, supporting children (under 18s) and young people (generally up to around 25-years-old) of all ages to desist from crime.

³⁶ See for example Wilson, D., Brennan, I., and Olaghery, A. (2018) *Police-initiated diversion for youth to prevent further delinquent behaviour* Campbell Collaboration <https://campbellcollaboration.org/library/police-initiated-diversion-to-prevent-future-delinquent-behaviour.html>; and Lesley McAra's essay in NAYJ (2018) *Child-friendly youth justice? A compendium of papers given at a conference at the University of Cambridge in September 2017* <http://thenayj.org.uk/wp-content/uploads/2018/05/NAYJ-Child-friendly-youth-justice-May-18.pdf>

³⁷ <https://www.contextualsafeguarding.org.uk/en/blog/2019/working-with-parents-to-address-extra-familial-harm>

³⁸ <https://journals.sagepub.com/doi/abs/10.1177/1473225416665611>;

<https://journals.sagepub.com/doi/abs/10.1177/1473225413520360>;

https://strathprints.strath.ac.uk/38070/1/21st_c.pdf



9.2 Sentencing

- Prior to the sentencing of a child for the breach of a KCPO, a pre-sentence report must be requested from the child's local youth offending team.
- Sentencing must take into consideration the fact that many children involved in knife crime are groomed and exploited. There is emerging evidence regarding the scale of child criminal exploitation, for example the National Crime Agency has identified over 1,000 "county lines", where exploitation of children is a fundamental part of the drug-dealing model.³⁹ The response to serious violence must address this, including the absence of support offered to children recognised as victims of trafficking or Modern Slavery, which can increase their vulnerability to being re-trafficked and re-exploited; and affected by serious violence.⁴⁰
- We are firmly of the position, in line with the UNCRC, that custody must only be used as a last resort and for the shortest possible period of time. The UN recommends that no child under the age of 16-years-old should be sent to custody.⁴¹
- Sentencing children to custody will not be effective at rehabilitating children and should be reserved for the most severe cases.
- We do not believe that breach of a KCPO would come anywhere close to this threshold, particularly for KCPOs other than on conviction: If the initial behaviour that led to a KCPO did not pass threshold for criminal prosecution, it is hard to see how a breach could in that event constitute last resort.
- Measures that attempt to prevent/address knife-possession that carry custodial sanctions for breach are problematic for three main reasons: there is no evidence custodial sentences deter children from committing crime; the 'public protection' argument is extremely weak for children; and custody is not rehabilitative but deeply harmful, so ineffective at producing the desired result of reducing crime levels.
- There is no evidence that the threat of custody acts as a deterrent. For harsher punishments to deter people from committing crime, they must be aware of the punishment, then make a rational choice, acting in their own best interest, whether or not to offend. Deterrence theory does not hold true for most people in trouble with the law, and especially so for children and young people: not only is awareness of sentencing amongst children and young adults very low,⁴² there are many children and young adults in trouble with the law who we would not expect to make rational choices.⁴³ This is particularly true when they are carrying weapons believing it is for

³⁹ <https://nationalcrimeagency.gov.uk/who-we-are/publications/257-county-lines-drug-supply-vulnerability-and-harm-2018/file>

⁴⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf

⁴¹ See revised UNCRC General Comment on Juvenile Justice <https://ohchr.org/EN/HRBodies/CRC/Pages/DraftGC10.aspx>

⁴² See for example Redthread oral evidence to the Home Affairs select committee serious violence inquiry available here: <http://bit.ly/2NZBc9H>. See also Bevan, M. (2016) Investigating young people's awareness and understanding of the criminal justice system: An exploratory study Howard League for Penal Reform <https://howardleague.org/wp-content/uploads/2016/06/Investigating-youngpeople%E2%80%99sawareness-and-understanding-of-the-criminal-justice-system.pdf>

⁴³ Many children involved in the justice system have mental health and learning difficulties (Carlile 2014), or problems with drug and alcohol abuse. Children have "limited capacity to determine the consequences of their decisions, and are "both more suggestible ('the tendency to change one's mind as a result of pressure or suggestion from others') and compliant ('the tendency to go along with others' propositions or instructions without internal agreement')" (Farmer E, Gudjonsson G H, cited in Centre for Social Justice, 2012). The National Institute of Mental Health has found changes in adolescent brains that alter behaviour, with studies (Blakemore & Choudhury 2006) suggesting that adolescent frontal lobes experience excess production of grey matter. As the frontal lobe is associated with rational thinking, this change impacts on decision making, organisation, self-control, emotional and impulse regulation, and risk-taking behaviours. http://michaelsieff-foundation.org.uk/content/inquiry_into_the_operation_and_effectiveness_of_the_youth_court-uk-carlile-inquiry.pdf; https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2016/08/CSJ_Youth_Justice_Full_Report.pdf; <https://www.ncbi.nlm.nih.gov/pubmed/16492261>



self-protection, especially if they perceive other forms of protection like the police as unavailable to them. Here, carrying a weapon seems like the rational choice. Evidence consistently supports this. A recent evidence review concluded that “lengthy prison sentences and mandatory minimum sentencing cannot be justified on grounds of deterrence.”⁴⁴

- There is very little evidence to support the argument that locking up those carrying out crimes will reduce the level of crime on the streets, in the interests of ‘public protection’. Home Office research found that a 15% increase in the use of custody would be required to see a 1% decrease in crime.⁴⁵ As children in trouble with the law tend to be a more transient group, it is likely an even larger increase in child custody numbers would be required to see any substantial impact on crime levels.
- Custody is not rehabilitative, and is harmful to children and adults. It goes against the principal aim of the youth justice system, according to UK law, to prevent offending by children. A recent report by the College of Policing concluded that for children involved in serious violence, “*prison alone has been found to significantly increase reoffending, compared to non-custodial sanctions*”.⁴⁶ The consistently and comparatively high reoffending rates hold when one factors in the more serious and persistent offending of those generally sentenced to custody.⁴⁷ Evidence indicates that custody has a criminogenic effect⁴⁸, with children incarcerated for six to twelve months being significantly more likely to reoffend compared to those in receipt of an intensive community sentence⁴⁹
- The damage that custody does is clear: the poor state of custodial institutions; lack of education provision and trauma-informed care; and the disruption that a custodial sentence causes through “lost accommodation, interrupted education, emotional distress and loss through separation from friends and family.”⁵⁰ We are aware of many children deprived of their liberty in England and Wales who are kept segregated, left in their cells for the majority of the day. We are also aware of many children who are subject to pain-inducing restraint, and the negative psychological and emotional impact of restraint and use of force.⁵¹ There are also longer-term developmental, emotional and social consequences of time in custody during the crucial period of adolescence.

⁴⁴ Nagin, D (2013) *Deterrence in the Twenty-first Century: A Review of the Evidence* Pittsburgh: Carnegie Mellon University <https://pdfs.semanticscholar.org/c788/48cc41cdc319033079c69c7cf1d3e80498b4.pdf>

⁴⁵ Home Office (2001) Making punishments work: report of a review of the sentencing framework for England and Wales Appendix 6, Impact of sentencing on crime, Home Office https://books.google.co.uk/books/about/Making_Punishments_Work.html?id=XD_qMgEACAAJ&redir_esc=y

⁴⁶ https://whatworks.college.police.uk/Research/Documents/Knife_Crime_Evidence_Briefing.pdf

⁴⁷ MoJ 2012, cited in NAYJ (2017) *The State of Youth Justice 2017: An Overview of Trends and Developments* National Association of Youth Justice

<http://thenayj.org.uk/wp-content/uploads/2017/09/State-of-Youth-Justice-report-for-web-Sep17.pdf>; MoJ (2018) *Do offender characteristics affect the impact of short custodial sentences and court orders on reoffending?* Ministry of Justice

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/706597/do-offender-characteristics-affect-the-impact-of-short-custodial-sentences.pdf

⁴⁸ McAra L and McVie S (2007) *Youth justice? The impact of system contact on patterns of desistance from offending* European Journal of Criminology, 4:3, 2007, pp315-45

<http://journals.sagepub.com/doi/abs/10.1177/147737080707186>

⁴⁹ Ministry of Justice (2012) 2012 Compendium of Reoffending Statistics and Analysis. London: Ministry of Justice

⁵⁰ HMI Probation (2015) *Joint thematic inspection of resettlement services to children by Youth Offending Teams and partner agencies* HM Inspectorate of Probation

<https://www.justiceinspectorates.gov.uk/hmiprobation/inspections/youthresettlementthematic/>

⁵¹ D. Strout ‘Perspectives on the experience of being physically restrained: An integrative review of the qualitative literature’ (2010) 19 *International Journal of Mental Health Nursing* 416;

P. Smallridge and A. Williamson *Independent review of restraint in juvenile secure settings* (London: Ministry of Justice and Department for Children, Schools and Families, 2008), 4-5;

R. Arthur, *The Criminal Justice and Courts Act 2015 – Secure Colleges and the Legitimation of State Sponsored Violence* *Modern Law Review* (2016) 79, 1, pp. 102-121



- Children must be able to grow up and move on from past mistakes. The criminal record system must recognise this and be reformed to stop it anchoring children to their past, demotivating them to change, and making it difficult to access education and employment opportunities. We are also aware of many barriers to rehabilitation that arise from a child's anonymity not being maintained during or after their involvement with the law, as a suspect or defendant.⁵² Children involved in serious violence appear particularly likely to have their anonymity revoked by judges, and the consequences of this should be reviewed.

10. Territorial Extent

No comments in this section.

11. Communication of the use of KCPOs

- Communicating the use of KCPOs is problematic in that there is an assumption that this communication would increase confidence and reassure for the community. In fact, drawing attention to the fact that young people are suspected of carrying knives, but not being prosecuted for it, may increase public concern about safety and confidence in policing.
- The experience of publicising the imposition of ASBOs made against children demonstrated the potential for vigilante action and negative implications for siblings and other family members.
- We would want this expanded upon and evidenced; our members believe that many parts of the community would disagree with this statement, and argue that the KCPOs will not act as a preventative tool, nor a deterrent to children and young people.
- The guidance should therefore make explicit the methods that should be used for communicating the use of KCPOs to the community, and what evidence this is based upon. The guidance should state that communications of the orders should not include images of weapons that may cause the local community unnecessary distress.

12. Consideration of the public-sector equality duty

- The reference to statutory requirements under equalities legislation is cursory with no reference to how reasonable adjustments to KCPOs are to be made to take account of the needs of protected characteristics.
- We recommend that the guidance is revised to include separate sections on the characteristics and needs of protected groups and how KCPOs are to be adapted to meet them. Particularly important protected characteristics to consider include:
 - Age (especially children and young adults)
 - Race
 - Mental health needs and learning disabilities
 - Gender

⁵² http://scyj.org.uk/wp-content/uploads/2014/05/Whats-in-a-Name-FINAL-WEB_VERSION_V3.pdf



- In relation to defendants who are under 18-year-olds, it may be helpful for the guidance to refer to the relevant sections of the Sentencing Council's *Overarching Principles – Sentencing Children and Young People*.⁵³
- We would also encourage inclusion in the guidance of specific consideration to be given to the findings and recommendations of the Lord Laming's review aimed at reducing the criminalisation of looked after children⁵⁴ (Prison Reform Trust, 2016) and David Lammy's review on the treatment of, and outcomes for Black and Minority Ethnic (BAME) individuals in the criminal justice system.⁵⁵
- We would wish to ensure that the guidance includes protection for children who are criminally exploited (including CSE) to ensure that KCPOs are not applied.

13. Pilot

The guidance states that:

“The purpose of piloting KCPOs pilot are to test and inform processes for the application of a KCPO. The pilot will provide useful data and feedback on the use and format of the documentation used in the application for an order as well as an opportunity to assess the prohibitions and requirements made in KCPOs and how well these have worked. The pilot will allow for a fuller understanding of the likely costs to be incurred once the orders are introduced in England and Wales. This guidance will be reviewed in light of the findings of the pilot, to ensure that it is updated ahead of introduction of KCPOs across England and Wales.”

- The government should publish an equality impact assessment of the orders, to from an important element of the report to be laid before Parliament.

There are a number of outstanding questions regarding how data collection, monitoring and evaluation of the pilot will be undertaken by the Home Office, that need to be addressed:

- Where will KCPOs be piloted?
- In how many areas will KCPOs be piloted?
- What elements of the KCPOs will be piloted?
- What are the timescales of the pilot?
- What data will be collected, monitored and analysed during the pilot?
- What data regarding KCPOs will be published, and with what frequency?
- Which data will be included in the report laid before Parliament?
- How and by whom will data regarding the prohibitions and requirements be collected? Which process and/or outcome data will be analysed to establish how well these have 'worked'?
- What data will be collected regarding costs incurred by the orders in the pilot areas, and what method of financial modelling will be used to project costs across England and Wales?

⁵³ <https://www.sentencingcouncil.org.uk/wp-content/uploads/Sentencing-Children-and-Young-People-definitive-guideline-Web.pdf>

⁵⁴ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/In%20care%20out%20of%20trouble%20summary.pdf>

⁵⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf



- Will the data regarding costs extend to those organisations who are providing assessments, reports and interventions to support KCPOs?
 - Youth offending teams
 - children's services
 - education
 - youth services
 - voluntary sector organisations, etc.

As a minimum, we would expect the Home Office to collect, monitor and evaluate the use of KCPOs in the pilot phase, based on the following data:

1. Numbers of orders made
 2. Nature of trigger behaviour
 3. Whether the court had a report available to it by YOT
 4. Conditions attached to orders (number and nature)
 5. Number and nature of breaches (i.e. what conditions were breached)
 6. Outcome of breach
 7. Outcome of KCPOs not breached (12-month tracking)
 8. All of the above broken down by demographic details – age, gender, ethnicity, care status.
 9. All of the above broken down by (i) the police force on whose behalf an application for the KCPO was made; and (ii) the court where the KCPO was applied for and imposed
- Qualitatively investigating the impact of KCPOs on individuals and communities is also extremely important. Involving young people in evaluation leads to a clearer and more meaningful picture of 'impact'.
 - SCYJ would strongly recommend that this pilot is evaluated by independent researchers and peer reviewed.
 - How will children and young people's experiences of being subject to a KCPO be explored?
 - Is the Home Office planning to commission an independent evaluation of the KCPO pilot? What is the budget for this evaluation?



Conclusion

Criminal justice measures or interventions alone will not solve the problems of fear and violence affecting young people. To see sustained improvements, it is vital to address the reasons why young people are fearful of their safety and the root causes of violence, including “childhood trauma, undiagnosed and untreated mental health issues, inadequate state provision and deficient parental support, poverty and social inequality”.⁵⁶ The response to knife carrying and prevention of serious violence will only be effective if it is evidence-based, and takes the context in which the child is at risk into account.⁵⁷

The Government’s response to tackling serious violence should be part of a broader strategy to improve the capacity of the safeguarding system, statutory and voluntary services to protect children at risk of harm outside the home. This should include but not limited to serious violence – child sexual exploitation, criminal exploitation and other forms of harm should also be considered in a coordinated way. Emerging evidence finds that the system is currently premised on abuse in private spaces⁵⁸ and professionals do not have a consistent framework, resources and guidance in place to address risks in the community⁵⁹. A response which presents the issue as distinct from wider safeguarding duties could lead to a more punitive approach to these children, which evidence suggests is inadequate to reduce violence.⁶⁰

Increased understanding in recent years of child and adolescent development and the causes of offending behaviour has contributed to the development of trauma-informed services and more appropriate responses to offending. The focus in the NPCC national strategy⁶¹ and emerging local practice on child-centred and diversionary approaches, have also contributed to a welcome large reduction in the number of children being criminalised. However, we are concerned that this progress risks being undermined by current government policy.

There is no need to reinvent the wheel – programmes and initiatives that are focused on adolescent safeguarding and violence reduction already exist. However, agencies are often working without the strategic support and resources they need to be effective. We need a system that receives the recognition and funding it deserves, enabling appropriate and holistic support for children and young people where and when it is needed to keep them safe.

The contents of this document do not necessarily reflect the views of all member organisations of the SCYJ

⁵⁶ <http://yvcommission.com/wp-content/uploads/2018/07/Interim-Report-FINAL-version-2.pdf>

⁵⁷ <http://thenayj.org.uk/wp-content/uploads/2019/05/Youth-knife-Crime-Briefing-May-191.pdf>; <https://www.rip.org.uk/news-and-views/blog/trauma-informed-responses-in-relationship-based-practice/>

⁵⁸ <https://www.tandfonline.com/doi/abs/10.1080/14733285.2019.1598545?journalCode=cchg20>

⁵⁹ <http://croydonlcsb.org.uk/wp-content/uploads/2019/02/CSCB-Vulnerable-Adolescent-Thematic-Review-PUBLISHED-Feb-2019.pdf>

⁶⁰ https://whatworks.college.police.uk/Research/Documents/Knife_Crime_Evidence_Briefing.pdf

⁶¹ <https://www.npcc.police.uk/documents/edhr/2015/CYP%20Strategy%202015%202017%20August%202015.pdf>

