## Appendix – Background information per jurisdiction

## Australia

Mental Health: Specialized mental health care is delivered in a range of facilities, including public and private psychiatric hospitals, psychiatric units or wards in public acute hospitals, and government-operated and non-government-operated residential mental health services. Child and adolescent services are usually available for young people aged under 18 years and youth services generally target young people aged 16 – 24 years old (see AIHW 2020, Mental Health services snapshot). National information available on the practices and policies and whether they are secure or non-secure placements, is unavailable.

Welfare: Child welfare in Australia is the responsibility of each state and territory governments, but child protection systems are similar across jurisdictions. Children under 18 years who are the subjects of abuse or neglect may be placed into out-of-home care. Nationally, about 7% of children in out-of-home care were living in residential care (AIWH 2021, child protective services). Residential care is mainly used for children who have particularly complex needs. There is little public information available on the practices and policies of residential care services, and whether these are secure or non-secure placements. Aboriginal and Torres Strait Islander children are vastly overrepresented in out-of-home care.

Youth Justice: Each state and territory has its own youth justice legislation, policies and practices but processes and types of legal orders available to the courts are similar. The upper age limit for treatment under youth system is 17 (at the time of the offence) in all states and territories. However, in Victoria, some people aged 18–20 may be sentenced to detention in a youth facility under the state’s ‘dual track’ sentencing system. It allows adult courts to sentence young people (aged under 21 years) to serve custodial sentences in youth detention instead of in adult prison. Clancey and colleagues (2020) identify several main themes common to recent reviews of the youth justice system, including the detrimental effects of detention and the failure to use detention as last resort, the need for greater provision of therapeutic and educational programs and the need for suitably trained and supervised staff. Furthermore, there is a long-standing history of over-representation of young Aboriginal and Torres Strait Islander people in the youth (and adult) justice systems in Australia (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs 2011).

Minimum Age of Criminal Responsibility (MACR): 10 years

## Denmark

Data on the prevalence, form and duration of restrictive measures applied to minors is difficult to access. The detention rates of children and young people in the health and justice sector used in the graphs above were based upon email correspondence with the Danish Regions and Criminal Justice Service reporting rates for 2019.

Mental Health: Young people aged 12-17 can be placed in 3 locked psychiatric wards (26 beds in total) for safety and treatment purposes. In 2019, there were 557 admissions, of which 460 were in secure emergency wards, with a maximum duration of ten days (personal correspondence with Danish Regions, 15.02.21).

Welfare: There are 8 secure institutions with a capacity of 106 beds. The large majority are placed in surrogate custody (aged 15-17), however the number of welfare placements is increasing every year (Danske Regioner 2020). Institutions operate in gender and age-integrated units, consisting of 4-5 separate rooms, a kitchen and recreational space. Secure institutions are regulated by Law on Adult Responsibility for Children in Out-of-home Care (LBK nr. 764). Besides restricting freedom of movement this law also legitimates restrictions on communication, visits, room and body searches and placement in isolation for up to 2 hours. The institutions are run by the Danish Regions who publish annual reports based on data submitted from the secure institutions. Basic data such as number of beds and annual intake are correct, but previous reports have been critiqued statistical errors and poor data on readmissions and aggregate length of placement for individual children (Taxhjelm et al. 2020). The welfare system also offers semi-closed placement in open institutions, where young people can be detained in a locked unit for up to 5 consecutive days and up to 30 days per year. In 2019, there were 44 semi-closed placements divided between 5 institutions.

Youth Justice: Convicted young people in pre-trial remand are usually diverted into child welfare, leaving 158 admissions of young people in the criminal justice system in 2019. There are a total of 18 beds divided between three units. Lenient sentencing and pre-trial remand conditions apply for minors and their confinement in criminal justice system is regulated by Legislation on Youth in the Criminal Justice System (LBK nr. 1413).

MACR: 15 years

## England

Secure settings in England are those in which young people are detained, under a legislative framework, with varying restrictions but including that they cannot leave on their request. There are many more youth custody placements than secure hospital or welfare beds. Children placed under welfare and justice legislation are locked in their rooms at night, those in secure hospitals are not. All legislative frameworks enable permission for increasing leave in preparation for reintegration into the community (Warner et al, 2018).

Mental Health: Children and young people’s secure hospital units take those up to the age of 18, detained under the Mental Health Act. The youngest tend to be around 14 years as there are concerns of contagion of risk behaviours to younger children. Eighteen year olds can remain on the unit if they are settled and discharge planned. There are 4 levels of security – High Dependency Units (attached to an open ward, no airlock), Psychiatric Intensive Care Units (aiming at admission of less than 6 weeks), Low Secure (longer term) and Medium Secure (longer term, receiving transfers from prisons).

Welfare: Children of any age can be given a secure order under The Children Act to be placed in Secure Children’s Homes (SCH) but specific and exceptional circumstances are needed when children are 16 or 17 years old. Detaining those 12 years and under needs Secretary of State sign off. SCHs can either be only welfare or only justice or mixed, though all are run through social care. Unit size varies (7-32 beds), the largest being those used at least partially for justice beds.

Youth Justice: Children detained under criminal justice legislation can be placed in either Secure Children’s Homes (SCH), Secure Training Centres (STC) or Young Offender Institutions (YOI) depending upon their vulnerabilities. Staffing levels in SCHs are higher than in STCs which are, in turn, higher than those in YOIs; with the youngest and / or most vulnerable children being placed in SCHs. STCs are meant to be more child centred than YOIs but have been beset by abuse scandals. Only one remains open (with space for 80 in smaller residential pods). YOIs look like adult prisons, with higher staffing ratios and education blocks. Until recently only boys could be detained there. With the closure of STCs a small number of girls are now detained in a special unit in one of the 4 YOIs in England. Children from England can be placed in the YOI in Wales. Transfer to adult establishments applies beyond 18 years unless their behavior is settled and release imminent. Young people of BAME backgrounds are overly represented in the youth custody estate (Lammy, 2017; Hales et al, 2018). In 2019, for the first time, children of BAME backgrounds were the majority in YOIs.

MACR: 10 years

**Wales**

Secure settings in Wales generally follow the same premise as in England and children are detained under a broadly similar legislative framework. Welsh children are accommodated in the same range of establishments as English children but such settings are not necessarily available within the country; this also varies depending on whether the child is resident in North or South Wales.

Mental Health: There is only one secure health provision for children in Wales, which is run by the private sector and offers 21 any gender, low secure beds. All children requiring conditions of medium security or care in a Psychiatric Intensive Care Unit (PICU) have to travel outside Wales, usually to England.

Welfare: There is one Local Authority Secure Children's Home in Wales which provides up to 12 Welfare beds, again any gender. This is located in the south of the country.

Youth Justice: There are up to 10 Youth Justice beds available for children of either gender in the same Secure Children's Home described above although the number commissioned at any time varies. There is one Young Offenders Institute (YOI) in Wales, again located in the south. This has capacity for 64 boys, although only 39 boys were detained there in 2019, and of these only 30% (approximately 12 boys) were Welsh (Her Majesty’s Inspectorate of Prisons, 2020). The YOI is on the same site but separate to a large men's prison. The catchment area for the YOI extends to South-West England. In 2019, Black and minority ethnic children were over represented at 46%, and these children expressed poorer perceptions of the fairness of the incentives and earned privileges (IEP) scheme (Her Majesty’s Inspectorate of Prisons, 2020). Welsh children who are detained in a Secure Training Centre must travel to England as do children from North Wales who are detained in a YOI.

MACR: 10

## New Zealand

Secure health data used for the graphs above are based upon information provided by the team leaders of the units. Those for welfare and justice are based upon Official Information Requests to the appropriate Ministries. Average occupancy was based on 12 months of statistics in the preceding year.

Mental health: New Zealand has 18 secure adolescent inpatient beds across two wards (10 secure inpatient beds and 8 secure intellectual disability beds). These units do not have a lower nor an upper-age cut-off which means that there may be 18, 19 and 20 year olds in the unit if considered to be developmentally immature or otherwise vulnerable.

Welfare: There are 4 units (10-20 beds each) in the Care and Protection Residence (C+PR) estate. Care and Protection Residences can take children from age 10 and technically can accommodate younger children though ideally children under 10 would be managed in community foster placements. The Children’s Commissioner[[1]](#endnote-1) and the Chief Executive of the child welfare system[[2]](#endnote-2) have indicated that these C+PR units will be closed, but without a specific timescale.

Youth Justice: The Ministry for Children runs 4 Youth Justice Residences (YJRs) (30-40 beds each). The Youth Justice Residences can technically take children from the age of 10 but that is extremely rare. Of increasing rarity is the presence of a 17-year-old in one of the two youth units within adult prisons, a vanishing practice as per government policy (July 2020) to ensure that all young offenders needing secure placement are managed in the Youth Justice Residences. Both the YJRs and the C+PRs are very similar to secure children’s homes in the UK.

MACR: 10 years.

## Northern Ireland

Mental Health: A four bedded CAMHS PICU has recently been opened. Other Secure Child and Adolescent Mental Health (CAMHS) hospital beds are accessed via extra contractual referral to National Health Service [NHS] England. A recent Department of Health review (2018) has recommended that one regional secure care and justice campus is created. It also recommended the secure CAMHS hospital bed needs of Northern Ireland are reviewed.

Welfare: There is one regional secure social care facility (maximum population of 16), managed by South Eastern Health and Social Care Trust. Admissions are decided by a regional secure care panel. It is governed by Childrens [Northern Ireland] Order 1995.

Youth Justice: There is one regional juvenile custody facility for Northern Ireland, managed by the Youth Justice Agency [YJA] (maximum population of 48). It is governed by the Criminal Justice [Children] [Northern Ireland] Order 1998.

MACR: 10 years.

## Norway

Mental Health: There are 16 adolescent acute psychiatric inpatient units approved for compulsory mental healthcare (in total 126 beds); 13 of the units are locked (however, it was not possible to find reliable data on the number of beds within these units). Four types of restraint are authorized for young people aged 16 and older: ‘physical holding’, mechanical restraints (including belts, straps and clothing specially designed to prevent injury), isolation (locked in behind a door without a staff member present) and pharmacological restraint (the use of a single dose of medicine that has a short-term effect) (Furre et al., 2016).

Welfare: There are no secure institutions within child welfare in Norway. In 2019, 144 young people aged 12-17 were placed in care on behavioral grounds, where a range of restrictive measures can be applied including restrictions on mobility for up to 14 days, restriction on electronic communication and forced return after absconding. The use of placement in single-projects in remote locations is increasing, which has been criticized for being de facto isolation and confinement, since the young people are prevented from leaving the institutional setting (The Norwegian Ombudsman for Children, 2020).

Youth Justice: There are two units for young people in the criminal justice system (4 beds in each) staffed by equal numbers of social workers and prison staff with at least 3.5 years of higher education. About 40 young people are detained annually, mainly placed in pre-trial remand. The threshold for pre-trial remand custody is high. As there are usually 4-8 children or young people detained, for the purposes of data comparison we have taken an estimated number detained at any one time as six.

MACR: 15 years

## Scotland

Mental health: There are no locked hospital facilities specifically for under 18 year olds in Scotland, although proposals are underway to build the first adolescent secure inpatient service. Currently, a child (<18 years) may be admitted under mental health legislation to a locked adult ward in Scotland, or transferred to specialist adolescent secure inpatient services in England. Numbers of children detained in secure adult wards or outside Scotland are not included in data presented in this paper. Admissions to adult wards and other non-specialist facilities are closely monitored, with a downward trend since 2013 (Mental Welfare Commission for Scotland, 2021). However, rates of emergency and urgent mental health detentions for 16 and 17 year olds have increased in recent years (Mental Welfare Commission for Scotland, 2020).

Welfare: Scotland has well-established provision of secure care, typically for young people aged 12 – 17 years. Capacity has reduced over time; currently 84 places are provided within five facilities (Scottish Government 2021). Children can be admitted to secure care either through the civil Children’s Hearing System, or through a Scottish Court. Social work services from the child’s home area are responsible for delivering or purchasing secure care services. In addition, some children are placed in Scottish secure accommodation on welfare orders from other parts of the United Kingdom.

Youth Justice: Scottish Ministers are responsible for sentenced children. In very serious cases, a child aged 12 or over may be prosecuted in an adult criminal court. It is now rare for a child aged under 16 years to be imprisoned, and most are remanded or sentenced to secure care. Children sent from court share the same secure accommodation as those placed on welfare orders. Older children aged 16 and 17 years may be detained in a Young Offenders Institution which has provision to hold young people until age 23 years, recognising their developmental needs. Numbers of young people detained in these institutions have steadily declined over the past decade (Scottish Government 2020). This is one effect of ‘Whole System Approach’ policy which aims to improve long-term outcomes for children through diversion from statutory measures, prosecution and custody, together with early intervention and community alternatives.

MACR: This was recently increased from 8 to 12 years.

## Sweden

Mental Health: There are no specific secure mental health beds for children (i.e. in which children cannot leave the psychiatric unit at their request) (Sveriges Kommuner och Regioner, 2020). There are 130 adolescent mental health beds for children under voluntary care and for those under Compulsory care as decided by the Administrative Court based on the Compulsory Mental Care Act (LPT 1991:1128). Under Compulsory care, restrictive measures can be used, such as being restrained by belt. The number of beds and children or young people detained in health at any one time (20), used in the graphs, is a minimum estimation based on the number of beds in child psychiatric units (130) and the share of children and young people in compulsory care (about 20 per cent). Seventy percent of detained children are girls (Sveriges Kommuner och Regioner, 2020). There is no lower age cut-off but an upper-age cut-off at age 18.

Welfare: Children and young people are confined in secure care institutions run by the Swedish National Board of Institutional Care (NBIC), the only authority authorised to provide secure care. The Care of Young Persons (Special Provisions) Act (LVU 1990:52) allows child welfare to apply for secure care (locked bed) at NBIC when children and young people are in compulsory care based on their behaviour (decided by the Administrative court) *and* when child welfare consider the child or young person to be in need of ‘special supervision’. NBIC are obliged to provide placement promptly. There are about 22 institutions (14-59 beds) and 731 beds, of which 663 are secure (locked) (Statens institutionsstyrelse, 2020a; 2020b). Restrictive measures, such as solitary confinement, can be applied for children and young people in compulsory care. All units have single bedrooms in sub-units of about seven rooms. The institutions provide education up to upper secondary school and most offer behavioral treatment programs. There are no time limits (the average duration of stay is 5 months) and no lower age cut-off, but an upper age cut-off at age 21 (the average age is 15-17 years of age). Unlike mental health, boys comprise the majority (about 70 per cent). NBIC provide annual reports with solid numbers of beds and children and young people in care.

Youth Justice: Very few children are sentenced to youth units at adult prisons (< 3/year), rather, children in contact with the justice system (age cut-offs 15-17 years of age) are diverted to child welfare. However, minors in pre-trial remand are placed within the Swedish prison and probation services, about 20 on a given day and 180 each year (correspondence with the Swedish prison and probation services 2021.08.17). Instead of prison, there are 58 secure beds for young people (age 15-17) sentenced to youth custody under the Secure Youth Care Act (LSU 1998:603) at institutions run by NBIC, the same authority as for children in secure welfare (Statens institutionsstyrelse, 2020a). Those sentenced to youth custody (c.70 p.a.) are almost entirely boys.

MACR: 15 years.

## The Netherlands

Mental health: There is no comprehensive disaggregated data available to determine the scale and types of secure mental health settings for children and young people.

Welfare: Children and young people are generally placed in secure institutions (16 – 141 beds), with a recent shift towards more placements in smaller facilities (4 – 6 beds) which offer specialized care, relational security and a homely setting, rather than a predominant focus on physical security. All welfare institutions are working to reduce coercive measures like seclusion and increase relational security. The average duration of stay is 7 months. There is no lower age cut-off. The upper cut-off is 18, but under exceptional circumstances a young person can stay beyond their 18th birthday (6 months maximum): most children (78%) are 12-16 years old, 60% are boys, 27% have a migration background. Mulder and Schumacher (2020) noted that welfare secure institutions were not fully occupied; while simultaneously, 165 children were on the waitlist for a bed in a secure setting offering specialized treatment (e.g. for children with an intellectual disorder. This indicates a quantitative (crude number of beds) balance, but qualitative (type of care) disbalance.

Youth Justice: In 2019 the Dutch Government announced legislation to implement five small-scale (8 beds) community-integrated youth justice facilities throughout The Netherlands, as an alternative to placement in large-scale high-security youth justice facilities. Five large-scale facilities (72 – 105 beds) are currently transformed into national forensic youth care centers for justice-involved children and young people in (temporary) need of specialized care and high security. Both types of facilities host remand and sentenced youth; units are divided into short stay (80% of total placements; of whom 50% stay < 1 months) and long stay (20% of total placements; average stay of 3.5-4 years). Youth justice laws can apply between 12 and 23 years. Most children and young people in youth facilities (50%) are 16-17 years, 26% >18 years, 95% are boys, 60% have a migration background.

MACR: 12 years

1. https://www.occ.org.nz/publications/newsletters/july-2021/ [↑](#endnote-ref-1)
2. <https://www.newsroom.co.nz/oranga-tamariki-closing-care-and-protection-residence> [↑](#endnote-ref-2)