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Crime and Policing Bill – Youth Diversion Orders

Joint Briefing for House of Lords Committee

27 January 2026

Summary

1. This briefing has been prepared by Justice in partnership, and with support from The Alliance for Youth Justice, Centre for Justice Innovation, Action for Race Equality, M Legal, National Youth Advocacy Service and The Traveller Movement.
2. It addresses provisions within Part 14 of the Crime and Policing Bill (“**the Bill**”) which create Youth Diversion Orders (“**YDOs**”). YDOs are a form of behavioural control order – a civil tool that imposes limitations upon a person’s liberty and daily activities in an attempt to prevent unwanted behaviour. The stated purpose of YDOs is to counter terrorism amongst children and young people.
3. If introduced, the impact of a YDO on a child cannot be over-stated. Having a YDO imposed on a child would be a life-altering event. Contrary to their name, YDOs are not diversionary. Instead, they criminalise children without due process, pull them further into the criminal justice system and label them as “terrorists”, without them ever having been convicted of a crime. We argue they are wholly inappropriate for use against children. For reasons set out more fully below, **we urge Peers to remove YDOs from the Bill as a matter of urgency**. In particular:

- YDOs contravene rights under the European Convention on Human Rights (“the Convention”).
- The powers within YDOs are extraordinarily wide and extend far beyond the targeting of “terrorism”.
- There is no evidence that YDOs and / or similar criminal-based interventions work on children.
- There is a significant risk that YDOs will replicate the discriminatory harms caused by Prevent and other behavioural control orders such as ABSOs.
- The Government has failed to properly consult with experts.
- Children living in one part of the country will be treated differently from those living in another.
- YDOs overlap with existing powers available via other behavioural control orders.
- Resources would be far better directed towards alternative interventions that have proven to be effective.

What is a Youth Diversion Order?

4. YDOs operate as follows:

- (a) YDOs can be imposed on children from the age of 10.
- (b) They can be imposed where a court is satisfied on a **civil standard of proof** - and **using evidence that is otherwise inadmissible in criminal proceedings** - that a child has committed a terrorist offence, an offence with a “terrorist connection”, or engaged in conduct likely to facilitate the commission of a terrorism offence. YDOs can therefore be imposed on children without them having been convicted of any offence or tried before a criminal court.
- (c) YDOs last for 12 months although they can be extended by six months on up to two occasions (Clause 177(4)). Whilst parties have the right to appeal the imposition of an order, there is no provision for parties to remove conditions imposed by an order once it is in place.
- (d) In addition to imposing notification requirements, YDOs provide the state with unfettered discretion to prohibit or require a child to “*do anything described in the order*” (Clause 169(1)(a)-(b)). This includes curfews, electronic monitoring and restrictions on who they can associate or communicate with, their movement and travel and what devices a child can access. YDOs can also require a child or young person to attend appointments or participate in activities, (Clause 169(3)(a)).

5. Breach of a condition and/ or the notification requirements contained in a YDO is a criminal offence, punishable by fine and/or imprisonment of up to 2 years (Clause 179).¹
6. The imposition of a YDO risks having far-reaching consequences on a child beyond their immediate future and outside of the territory of the UK. For example, it is not clear where the imposition of a YDO will be recorded and for how long e.g., whether it will show on disclosure and barring service (“DBS”) checks and / or whether breach of a YDO constitutes a terrorism-related offence itself. Restrictions on the ability of the child to travel to overseas territories is also likely to be permanently affected owing to the classification of a YDO as a “terrorism-related” measure.

Our Concerns

Violation of European Convention on Human Rights, with extraordinarily wide powers

YDOs contravene rights under the European Convention on Human Rights (“the Convention”), including the right to a fair trial and the right to private life.² YDOs provide that a civil court can, for all intents and purpose, rule that a child has committed behaviour amounting to a severe criminal offence – on the basis of a civil standard of proof and civil procedural rules.

7. Based on independent legal advice obtained by JUSTICE in 2023 and 2025 which analysed the potential violations of Convention rights caused by various types of Behavioural Control Order,³ we consider that YDOs give rise to several human rights implications under the European Convention on Human Rights. This is also acknowledged by the Government in its Human Rights Memorandum.⁴
8. We disagree with the Government’s position that any interference with children’s rights will be justified in pursuing the legitimate aim of protecting national security and that there are sufficient safeguards within the YDO framework to ensure proportionality.⁵ In addition to our concerns about the efficacy of YDOs, set out at para 18 below, we are particularly concerned that YDOs attempt to usurp long-standing fair trial rights and the rule of law.

Article 6 – the right to a fair trial

¹ JUSTICE, *Lowering the Standard: a review of Behavioural Control Orders in England and Wales* (2023).

² See independent legal advice sought by JUSTICE in 2023 and 2025: King and Spalding, *The Human Rights Implications of Behavioural Control Orders* (2023); and King and Spalding, *The Human Rights Implications of Serious Crime Prevention Orders: Supplemental Opinion* (2025).

³ See independent legal advice sought by JUSTICE in 2023 and 2025: King and Spalding, *The Human Rights Implications of Behavioural Control Orders* (2023); and King and Spalding, *The Human Rights Implications of Serious Crime Prevention Orders: Supplemental Opinion* (2025).

⁴ Home Office/ Ministry of Justice/ Ministry of Defence, *European Convention on Human Rights Memorandum* (February 2025).

⁵ *Ibid.*

9. Part 14 provides that a court can impose a YDO on a person between the ages of 10-21, where it is "*satisfied*" on the balance of probabilities that: (i) the child or young person has committed a terrorism offence; (ii) the child or young person has committed an offence with a terrorist connection; or (iii) the child or young person has engaged in conduct likely to facilitate the commission (by the child or anyone else) of a terrorism offence, and where the court considers it necessary to make the order for the purpose of protecting members so the public from a risk of terrorism or other serious harm. Interim YDOs – which are almost identical to full YDOs – can be imposed upon a child in their absence and without the child being afforded the opportunity to make representations.
10. The test for imposing a YDO, covering as it does "conduct that is likely to facilitate the commission of a terrorism offence" is extremely broad and lacks specificity.
11. Nor has any explanation been provided to explain why the test for imposing a YDO is being extended beyond terrorist activity to also include "*serious harm*" (Clause 167(2)(b)). Serious harm is defined as conduct or the *threat of* conduct that involves serious violence against a person, (ii) endangers a person's life or (iii) creates a serious risk to the health or safety of the public or a section of the public (Clause 168). Given the intention of preventing terrorism, we do not consider it appropriate nor necessary for the test to be expanded in this way. Moreover, existing Behavioural Control Orders – such as Serious Violence Reduction Orders – have already been introduced for this purpose.⁶ The inclusion of "*serious harm*" needlessly broadens the category of behaviour for YDOs and thereby undercuts the requirement to prove any intention related to terrorism.
12. The impact of the conditions imposed by YDOs, the gravity of being subject to counter-terrorism measures and the long-standing impact it can have on a child's future, means that YDOs are equivalent in character and severity to the consequences of a criminal conviction. Despite the Government's position that the YDOs are not a penalty,⁷ their impact is undoubtedly punitive. As such, and notwithstanding the Government's characterisation of YDOs as "civil",⁸ we consider that they are essentially criminal in nature. This is the case notwithstanding the 2023 Supreme Court judgment in *Jones*, referred to by the Government,⁹ which must be confined to its particular facts and the statutory regime governing Gang Injunctions where the subject of that case and which are distinct from (and offer more procedural safeguards) than the regime governing YDOs.¹⁰

⁶ Police, Crime, Sentencing and Court Act 2022; Crown Prosecution Service, 'Hundreds of Court Orders secured during successful knife crime pilot on Merseyside' (April 2025).

⁷ Home Office/Ministry of Justice/Ministry of Defence, European Convention on Human Rights Memorandum (February 2025).

⁸ Home Office, Equality Impact Assessment (June 2025).

⁹ Home Office/ Ministry of Justice/ Ministry of Defence, European Convention on Human Rights Memorandum (February 2025), para 368.

¹⁰ *Jones v Birmingham CC and Secretary of State for the Home Department* (2023) UKSC 27.

13. This means that children subject to a YDO should benefit from the full protections provided for under Article 6 of the Convention. This includes having the case in favour of imposing an order made out to the criminal standard of proof; rules being in place to prohibit the admission of hearsay; adequate time and facilities being provided to prepare a defence to a YDO; being provided with the opportunity to defend against the imposition of an order in person or through legal assistance and being afforded the ability to examine or cross-examine witnesses. These minimum safeguards are absolute; they cannot be qualified by necessity - yet a young person subject to a YDO or an Interim YDO benefits from none of them.
14. However, whilst we would ordinarily request that the Bill be amended to require that the court be satisfied "*beyond reasonable doubt*" i.e., to the criminal standard of proof, that a child or young person has committed the conduct set out at Clause 110(2)(a), given that the conduct to be proven is an offence in itself – this approach is also unworkable. For all intents and purposes, it would mean that a child could be found to have committed an offence without ever being subject to a criminal charge, criminal investigation or trial. YDOs must not be used to obtain a prosecution by the backdoor under the guise of diversion.

Article 8, 9, 10 and 11

15. The Government recognises that Articles 8 (right to respect for private and family life), 9 (freedom of thought, religion and belief), 10 (freedom of expression) and 11 (freedom of assembly and association) are restricted by YDOs on the basis that they can impose significant restrictions on what a child can do, where they can be and who they can communicate or associate with.
16. We are particularly concerned about the Government's ability to impose notification requirements and curfews on children and how these will be enforced in practice. We also note the absence of any protections against the use of pervasive requirements such as electronic monitoring.¹¹ These measures amount to very serious interferences with a child's article 8 rights, and when coupled with other restrictions could amount to an unjustifiable deprivation of liberty under Article 5. We consider it wholly inappropriate and unnecessary to impose such requirements on children, not least on the basis that it is stigmatising and will only push children further into the criminal justice system leading to worse future outcomes and increasing the risk of re-offending – as repeatedly warned against via youth justice experts.¹²
17. We do not consider that these rights interferences can be justified. As set out by Lord Reed in *Bank Mellat v HM Treasury*, the test for whether an interference with a right can be justified and is proportionate, includes an assessment of whether the measure is

¹¹ Home Office/ Ministry of Justice/ Ministry of Defence, [European Convention on Human Rights Memorandum](#) (February 2025), para 79.

¹² L. McAra, and S. McVie, Criminology & Criminal Justice, ['Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime'](#), (2010).

*"rationally connected to the objective".*¹³ As explained at para 19 below, there is insufficient evidence that orders like YDOs are effective at preventing crime or changing behaviour, far less terrorism. Therefore, we do not consider that YDOs can be held to be rationally connected to the objective of preventing terrorism.

United Nations Convention on the Rights of the Child

18. Finally, we note the absence of any discussion concerning the Convention on the Rights of the Child ("**UNCRC**") in the Government's Human Rights Memo or in briefings accompanying the Bill. It is not clear how YDOs will interact with rights enshrined therein, nor what steps the Government has taken to ensure compliance with that Convention. This is not least given remarks by the UN Committee in respect of the impact of the UK's counter-terrorism measures on children and young people, as discussed at para 25 of this briefing.¹⁴

Lack of Evidence that Criminal Interventions and Behavioural Control Orders work

There is no evidence that YDOs and / or similar criminal-based interventions work on children. In-fact, research shows that measures like YDOs increase the likelihood of children being drawn into criminal justice.¹⁵

19. We disagree with the Government's position that any interference with a child's human rights can be justified on the basis that YDOs are necessary to protect national security. In particular, we note the lack of robust evidence to suggest that coercive measures such as Behavioural Control Orders, are effective at preventing children from participating in harmful behaviours. Both YDOs and the now-abandoned, Knife Crime Prevention Orders, reflect a lack of understanding of the root causes of serious violence amongst children.
20. The Youth Justice Board's (**the "YJB"**) submission to the Joint Committee on Human Rights ("**the JCHR**") for their legislative scrutiny of the Crime and Policing Bill states that:
"The evidence does not support the use of civil orders such as the planned Youth Diversion Orders and in fact the evidence shows that civil orders are often ineffective at addressing the root cause of offending and can also draw children further into the system in the event of a breach of conditions".
21. The view that the threat of prosecution motivates children not to commit unwanted behaviour is more of an assumption than a position supported by evidence. For examples, statistics on ASBOs show that 68% of all ASBOs issued to children since 2000 had been

¹³ *Bank Mellat v HM Treasury* [2013] UKSC 38.

¹⁴ UN Committee on the Rights of the Child, '[Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland,](#)' (June 2023).

¹⁵ L. McAra, and S. McVie, Criminology & Criminal Justice, '[Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime,](#)' (2010).

breached, undermining their effectiveness at “prevention”.¹⁶ A report by JUSTICE highlighted that many children who become involved in crime are first victims of it,¹⁷ whilst others get involved in offending behaviours or associate with gangs via grooming and a false perception that they are “safer” or offered a form of protection as a result. In their written evidence to Parliament, the YJB set out their position on Knife Crime Prevention Orders clearly:

“The operational perspective from youth offending team (YOT) practitioners supports the argument that children are not fearful or influenced by the risk of conviction, detention or criminal justice intervention and so legislating to create new offences is unlikely to act as a deterrent. Contact with the criminal justice system can have a negative effect on children and can increase their likelihood of reoffending.”¹⁸

22. We thereby strongly disagree with the Government’s claim that YDOs are a non-criminal intervention and that they are rehabilitative or diversionary in their approach. The reality is that a child who has never been convicted of an offence, can find themselves subject to severely restrictive prohibitions and requirements which, if breached, will lead to their imprisonment, and which may push them further from support. This is particularly alarming when considering statistics that 31% of children referred to counter-terrorism programmes like Prevent, are under the age of 14.¹⁹ The impact of YDOs on this age-group could be catastrophic. For example:
- (e) **Setting children to fail** – children and young people are considerably more likely to breach prohibitions and requirements in orders because they do not understand the purpose of the order, the nature of the prohibition or requirement and are more likely to breach the order due to having under-developed executive functioning, being ambivalent of the consequences and forgetfulness.²⁰
 - (f) **Isolating children from support networks** – the ability to use orders to prevent children and young people from associating with certain persons, or using electronic devices, may inadvertently undermine their positive relationships and support. As currently drafted, the prohibitions lack precision and could easily function in such a way that makes communicating with care-givers and other responsible persons, more difficult. Removing the ability of a child to communicate via electronic means also sets them apart from their peer group. It is well-established that extremism and fundamentalism thrives on social isolation and we are deeply concerned that without proper consideration, such restrictions

¹⁶ Prison Reform Trust, [‘Prison Reform Trust consultation submission, More effective responses to anti-social behaviour’](#) (2011).

¹⁷ The Youth Justice Board for England and Wales, ‘Written evidence submitted by The Youth Justice Board for England and Wales (BYC007)’ (2019).

¹⁸ The Youth Justice Board for England and Wales, ‘Written evidence submitted by The Youth Justice Board for England and Wales (BYC007)’ (2019).

¹⁹ Counter Terrorism Policing, [‘New Statistics show increase in Prevent referrals,’](#) (7 December 2023).

²⁰ JUSTICE, [‘Lowering the Standard: a review of Behavioural Control Orders in England and Wales’](#) (2023).

could be counter-productive. The use of restrictive non-association conditions and the lack of individual support and supervision was one of the main factors leading to high breach rates of ASBOs in the 2000s.²¹

(g) **Punitive not rehabilitative** – A lack of resources, poverty, social and cultural differences and personal factors such as low self-esteem and confidence all present barriers to children's effective participation in such programmes.

23. There is also no reference on the face of the Bill to safeguarding, risk assessments, requirements to look at alternative informal interventions, nor ensuring that rehabilitative programmes are quality assured and appropriate – in stark contrast to the regime set out for Respect Orders in Part 1 of the Bill and recommended by the Youth Offending Teams in respect of other orders aimed at children.²² Whilst referred to as non-criminal in nature, it is deeply troubling that the only agencies referred to in Part 14 are actors of the criminal justice system. Apart from a reference to a weak consultation requirement with Youth Offending Teams in Clause 113, the Bill provides no other opportunities for child and youth justice experts to intervene.

Discriminatory Impact on Children from Racialised Communities and Children who are Neurodivergent

24. **There is a significant risk that YDOs will replicate the discriminatory harms caused by Prevent and other behavioural control orders such as ABSOs contributing further to the structural inequalities in the justice system. Research on similar types of orders shows that children from racialised communities and children with additional support are disproportionately impacted.**

Racial Discrimination

25. Prevent referrals in the UK show clear racial and religious disparities, with Muslim children significantly over-represented. The case of Zain, highlighted in Amnesty International UK's report, illustrates this pattern.²³ At just 11 years old, Zain- a Muslim boy from northern England- was referred to Prevent after making a joking remark at school, despite his mother having raised concerns about his stress and anxiety. Zain's story is not unique. Such referrals often stem from racial and religious bias rather than credible evidence, reflecting how stereotypes linking Muslim identity with extremism continue to shape Prevent's application. This is endemic regardless of route of referral. For example, a survey of 329 NHS staff found that a severe gap in guidance relating to referrals and what did or

²¹ Prison Reform Trust, 'Prison Reform Trust consultation submission, More effective responses to antisocial behaviour' (2011), p.3;

²² Youth Justice Legal Centre, '[Criminal Behaviour Orders](#)' (February 2021).

²³ Amnesty International UK, '[This Is the Thought Police](#),' (November 2023).

did not constitute “*extremism*”, led to many health workers to rely on stereotypical representations they’d witnessed in popular culture.²⁴

26. The UN Committee on the Rights of the Child, in its 2023 report on the United Kingdom, similarly expressed concern about the chilling effect of counter-terrorism measures on children’s freedom of expression and noted that nearly half of all children referred under Prevent are Muslim or of Asian background.²⁵ This is the case despite the government’s acknowledgement that ‘*government and academic research has consistently indicated that there is no single socio-demographic profile of a terrorist in the UK, and no single pathway, or “conveyor belt”, leading to involvement in terrorism*’.²⁶ Rights & Security International has further criticised the government’s failure to collect and analyse equalities data, which obscures these inequalities and undermines its public sector equality duty.²⁷ Together, this evidence highlights how Prevent embeds structural racial and religious bias, risking the criminalisation of children based on identity rather than behaviour.²⁸ There is a significant risk that YDOs will replicate the discriminatory harms caused by Prevent and other behavioural control orders such as ASBOs contributing further to the structural inequalities in the justice system.

Discrimination against neurodivergent children

27. The discriminatory impact that similar orders have on children with intellectual disabilities or those who are neurodivergent is well documented in relation to Anti-Social Behaviour Orders (“ASBOs”) but also in respect of existing counter-terrorism programmes such as ‘Prevent’.²⁹
28. There is a high incidence of neurodiversity among Prevent referrals. Jonathan Hall KC, the Independent Reviewer of Terrorism Legislation, has stated that the incidence of autistic people being referred to the Prevent programme was ‘staggeringly high’ and that ‘it is as if a social problem has been unearthed and fallen into the lap of counterterrorism professionals’.³⁰
29. The overrepresentation of neurodiverse people in Prevent referrals does not, however, reflect any increased risk of neurodiverse people committing terrorism-related acts. Instead, some autism features could be mistaken for signs of radicalisation in the Prevent context, such as “*intense interests [and] the drive to collect facts and figures about a*

²⁴ Heath-Kelly, C., and Strausz, E., ‘Counter-terrorism in the NHS: Evaluating prevent duty safeguarding in the NHS,’ University of Warwick: Department of Politics and International Studies (2018).

²⁵ UN Committee on the Rights of the Child, Report on the United Kingdom (June 2023)

²⁶ HM Government, *CONTEST*. ‘The United Kingdom’s strategy for countering terrorism 2023.’ (CONTEST Strategy, 2023), para 74.

²⁷ The Guardian, ‘Prevent ‘could be breaching UK equality laws’ over treatment of autistic people,’ (29 May 2025).

²⁸ The Guardian, ‘Prevent ‘could be breaching UK equality laws’ over treatment of autistic people,’ (29 May 2025).

²⁹ Amnesty International UK, ‘This Is the Thought Police,’ (November 2023).

³⁰ The Guardian, ‘“Staggeringly high” number of people with autism on UK Prevent scheme,’ (7 July 2021).

topic". Autistic people are also more likely to be 'misunderstood or misperceived by other people' including public sector staff subject to the Prevent duty.³¹

Further concerns

30. **The Government has failed to properly consult with experts**, including those working within children's services and youth justice to explore alternatives, to reduce / prevent harm. The Youth Justice Board, in their evidence to the Joint Committee, state:

"To be effective in tackling radicalisation and terrorism, it is vital that in the first instance universal services, safeguard, educate and prevent children from becoming marginalised. When vulnerabilities are identified, an individualised and collaborative approach is required. It is also worth noting that any child at risk of or who has committed a TACT offence is likely to present with additional needs and vulnerabilities and should be supported using existing safeguarding measures by all professionals working with the child."

31. Despite the Government stating otherwise, the YDO framework does not represent a safeguarding or child-focussed approach. For example:

- (a) **Children living in one part of the country will be treated differently from those living in another.** Inconsistent approaches adopted by the Police, Crown Prosecution Service and the Courts when dealing with orders, local capacity issues and the inability of the Police to properly monitor or respond to breaches due to capacity issues³² creates postcode lotteries and undermines the rule of law.³³
- (b) **YDOs overlap with existing powers available via other behavioural control orders** such as Serious Violence Reduction Orders. The over-lap between Behavioural Control Orders causes significant operational challenges for the Police and for the Crown Prosecution Service when determining when to impose an order and which order to use.
- (c) **There is a lack of clear data evaluating the outcomes for children arrested under terrorism legislation.** Before introducing new measures, the Government must first improve its data collection and conduct a robust review on the current disposals for children arrested for, or identified as at risk of being engaged in, terror-related activity. More transparency on the impact of existing disposals is needed to understand the actual scale and gaps in the current provision for at risk children to ensure that any new measure can actually work.

³¹ Amnesty International UK, ['This Is the Thought Police,'](#) (November 2023).

³² JUSTICE, [Lowering the Standard: a review of Behavioural Control Orders in England and Wales](#) (2023).

³³ *Ibid.*, para 3.15.

Alternatives to YDOs

We urge the Government to adopt an approach of maximum diversion and much earlier non-criminal intervention to prevent a child or young person from becoming involved in terrorism-related behaviours. This is not something that can be achieved by a YDO – particularly given the lack of any provision within Part 14 for risk assessments, robust consultation requirements or multi-agency working.

32. Discussions with practitioners suggest that there are better ways to respond to this important issue:
 - (a) **Strengthening existing youth diversion mechanisms:** Instead of introducing a new order, stakeholders suggest improving the use of existing tools (youth diversion and youth conditional cautions) alongside enhanced partnership working between Youth Justice Services (YJS) and counter terrorism policing.
 - (b) **Joint working protocols:** Better coordination between counter terrorism policing and youth justice practitioners may offer a more effective route than creating new civil orders. Tools such as the newly developed counter terrorism Child Gravity Matrix (parallel to the general Child Gravity Matrix) could help ensure proportionality and consistency in decision-making. The Child Gravity Matrix is a triage tool to support decision making for officers, to assist in deciding the most appropriate outcome or disposal for those children and young people, under the age of 18 years who offend. More partnership working and joined up approaches from experts across the sector including health, education and psychology – as well as actors from the justice system - would constitute a truly safeguarding and child-centred approach.

Remove YDOs from the Crime and Policing Bill or introduce robust safeguards

33. For all of the above reasons, we call for Youth Diversion Orders to be removed from the Bill. We do not consider that the problems relating to YDOs can be resolved owing to their impact on children and their ineffectiveness at protecting the public and preventing terrorist offending. That being said, should the Government not remove YDOs, then at the very minimum, we urge it to introduce robust procedural safeguards to ensure that they do not undermine children and young people's right to a fair trial.

For more information, please contact:

Andrea Fraser, Civil Lawyer, JUSTICE – afraser@justice.org.uk

JUSTICE | 23 January 2026