Witness: Howard League for Penal Reform
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UK COVID-19 INQUIRY

WITNESS STATEMENT OF ANDREA COOMBER KC (HON.) ON BEHALF OF THE HOWARD LEAGUE FOR PENAL REFORM

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1. I, **Andrea Coomber KC (Hon.)**, make this statement on behalf of the Howard League for Penal Reform ("**the Howard League**"). This statement is made in response to the Rule 9 Request for Evidence dated 8 January 2025, for Module 8 of the Covid-19 Public Inquiry ("**the Rule 9 Request**"). Module 8 is examining the impact of the Covid-19 pandemic on children and young people in England, Wales, Scotland and Northern Ireland. The Howard League's work is limited to England and Wales only.

2. I am the Chief Executive of the Howard League and have been in post since November 2021. Prior to this, between 2013 and October 2021, I was Director of JUSTICE, a cross-party law reform charity working to build a fairer UK justice system. In the fifteen years immediately before I joined JUSTICE, I worked for an international NGO called INTERIGHTS, at the International Service for Human Rights in Geneva and at the South Asia Documentation Centre in New Delhi. I am qualified as a barrister and solicitor in Australia.

3. I was the Chief Executive of the Howard League for the last seven months of the two and half year "**Specified Period**" as defined in the Rule 9 Request (1 January 2020 to 28 June 2022). The Chief Executive in post for the first part of the Specified Period, and for some three decades prior, was Frances Crook OBE. The Legal Director in post for the majority of the Specified Period was Dr Laura Janes KC (Hon.). Dr Janes held responsibility for the running of the Howard League's in-house legal team, including the operation of the Howard League's legal advice line for children and young people aged

21 and under in penal custody ("**the Advice Line**") and for much of the policy work relating to children and young people during the Specified Period (and prior). Dr Janes left the Howard League in February 2022. Sinead MacCann and Claire Salama were acting Legal Directors for the remainder of the Specified Period.

4. The information, opinions and examples contained within this statement are a product of my discussions with colleagues at the Howard League who were working at the Howard League during the Specified Period and who remain in post, along with reviews of relevant material, such as emails, reports and other communications relating to the Specified Period. I have also included information and examples from my own personal knowledge and experiences.

Definitions

5. We note that, for the purposes of Module 8, the Inquiry defines a 'child' as an individual aged between 0 to 18 and a 'young person' as follows: *"the individual was a) a care leaver between the ages of 18 and 25; or b) had special educational needs and/or disabilities (up to 25 years old); or c) was 18 to 25 and attended further and/or higher education and/or training; or d) was between the ages of 18 and 25 and in the custody of the state."* Whilst we have endeavored to remain consistent with these definitions, it is important to note two points. First, individuals must be aged 18 or over to be a member of the Howard League. As such, any evidence contained within this statement which is based upon the experiences of members of the Howard League will pertain to individuals aged 18 or over. Second, the Advice Line is available for children and young people aged 21 and under (at the time of initial contact with us). As such, any evidence contained within this statement which is based upon the experiences of callers to the Advice Line will generally pertain to individuals aged 21 and under only.

Introductory remarks

6. At the outset, it is important to explain the nature of the evidence that the Howard League can provide to the Inquiry. The views and opinions expressed by the Howard League in this statement, insofar as they relate to children and young people, are not based on empirical research underpinned by granular, quantitative data. They are based on a variety of material, including anecdotal evidence and individual observations, derived from a variety of sources, including:

a. Information obtained and knowledge gained through callers to the Advice Line, as well as their family members and friends;
b. Individual client casework undertaken by solicitors working for the Howard League;
c. Other criminal justice professionals, including advocates, prison staff, probation staff, social workers and lawyers; and
d. Other stakeholders, including His Majesty's Inspectorate of Prisons ("HMIP"), the Children's Commissioner for England and the Prisons and Probation Ombudsman ("PPO"), as well as other third-sector and community organisations; and
e. Ministers in the Ministry of Justice ("MoJ") and officials in His Majesty's Prison and Probation Service ("**HMPPS**") and Youth Custody Service ("**YCS**").

7. It is also important to provide context of how children and young people are held in penal custody in England and Wales.

8. Children under 18 years old who are remanded or sentenced to custody are sent to secure establishments within the children and young people secure estate. During the Specified Period, there were three distinct types of secure settings for children: Young Offender Institutions ("**YOIs**"), Secure Training Centres ("**STCs**") and Secure Children's Home ("**SCHs**"). During the Specified Period, there were five YOIs in England and Wales: Cookham Wood, Feltham A, Werrington and Wetherby in England and Parc in Wales. There were two STCs: Oakhill and Rainsbrook (which closed in December 2021). There were eight SCHs providing justice placements for children: seven in England and one in Wales. Since the end of the Specified Period, one of the YOIs (Cookham Wood) has closed and a new secure school (which is a type of SCH) has been opened.

9. The children and young people secure estate will sometimes retain young people aged 18 and over if their individual needs require, for example, if they will shortly be released or they have particular complex needs.

10. Generally speaking, young people (as defined by the Inquiry) will be placed in a dual designated prison, housing both younger and older adults. During the Specified Period, there were a number of designated young adult establishments (for example, Aylesbury and Feltham (B) prisons) which held young adults aged between 18 and 21 only but these sites have since started holding older adults over time. There are still some

establishments which predominantly hold young adults aged 18 to 25. However, in most adult prisons, young adults are a minority.

11. In terms of the number of children and young people in custody over the Specified Period, the population reduced. In March 2020, in custody there were 737 children, 4,049 18- to 20-year-olds, and 9,106 21- to 24-year olds. By June 2022, there were 441 children, 3,240 18- to 20-year-olds, and 8,169 21- to 24-year olds.

12. Finally, by way of introductory remarks, it is important to explain the broader context in which the evidence provided in this statement is set.

13. First, prisons in England and Wales were already in crisis prior to the pandemic. In his annual report 2019-20, the then Chief Inspector of Prisons reported that, in respect of the children and young people secure estate, there was no overarching strategic framework or clear vision for the future and the outcomes for many children have been "appalling" (**Exhibit HL/01 [INQ000613078]**). The failure to create and deliver a strategy that recognised and met the needs of young adults in the custodial estate was noted by successive House of Commons Justice Committees in the years prior to the pandemic (**Exhibit HL/02 [INQ000613079]**).

14. Second, children and young adults in custody are amongst the most vulnerable in society. Many will have experienced multiple adverse childhood experiences impacting on their physical and mental health. It is estimated that between 60% and 90% of children in custody have speech, language and communication needs, and neurodivergent children are significantly over-represented in the youth justice system. These needs and vulnerabilities extend to many young adults in custody, who remain vulnerable due to their age, developing maturity and distinct needs. The impact of the pandemic and, in particular, the isolation and restricted regimes that children and young adults experienced, exacerbated these vulnerabilities.

15. Third, until 2013, prison law legal aid included help a wide range of issues, including sentence progression and treatment in custody, provided there was sufficient benefit in doing the work and the person was financially eligible for legal aid. However, changes (introduced by the Criminal Legal Aid (General) Regulations 2013 SI No 9), reduced the scope of legal aid in prison law drastically (for a good summary of the changes and their impact on prison see *R (Howard League for Penal Reform and The Prisoners' Advice Service) v The Lord Chancellor* [2017] EWCA Civ 244 (**Exhibit HL/03** [INQ000613080]). Eligibility for prison law legal aid is very low - income must be under £99 per week

(including the income of any partner they plan to live with on release) and savings under £1,000. Currently, there is very limited prison law legal aid available beyond Parole Board and independent adjudication cases. One of the arguments for reduced legal aid for advice on issues such as sentence planning and treatment in custody was that there were other mechanisms for external scrutiny (including by community-based professionals and the Independent Monitoring Board), seeking redress (access to the complaints systems and to the Prisons and Probation Ombudsman) and support to do so (for example, from advocates in the children and young people estate). However, during the pandemic, a lot of these mechanisms stopped or were less easily accessed by people in prison and yet the scope of legal aid was not expanded to compensate for this.

16. Fourth, research suggests that the extent of the impact of the pandemic was not felt equally across the different types of secure establishments for children. The majority of children and 18-year-olds whom the Howard League spoke to on the Advice Line were held in YOIs, where the impact of the pandemic was most acute as compared to the STCs or SCHs (**Exhibit HL/04 [INQ000613081]**). Young adults who were not in the youth custodial estate were held in a range of adult prisons, so their experiences varied in line with the variance across the adult estate as a whole.

17. Fifth, and relatedly, the views and opinions expressed by the Howard League in this statement are set within the context of our knowledge and experience of the entire custodial estate. Where possible, we have set out our opinions and experiences insofar as they relate specifically to the children and young people secure estate or to young adults' experiences in adult prisons. However, many of the views and opinions expressed in this statement will necessarily derive from our knowledge and experience of the prison estate more broadly. We consider this to be of benefit to the Inquiry as it means that we can provide more rounded and holistic evidence.

About the Howard League

18. The Howard League is the oldest penal reform charity in the world (registered charity No. 251926). Founded as the Howard Association in 1866, it began with the aim of *"promotion of the most efficient means of penal treatment and crime prevention"* and to advocate *"a reformatory and radically preventive treatment of offenders"*. Further information can be found on our website. In 1921, the Howard Association merged with the Penal Reform League and the charity moved forward with a new name: *'The Howard League for Penal Reform'*. Since inception, it has been instrumental in landmark

reforms, including the abolition of the death penalty, setting up the probation service, reducing the use of custody for children, and championing alternatives to imprisonment.

19. The Howard League aims to build consensus that prison does not work and that the answers to crime lie not in the criminal justice system, but in a fairer and equitable society, one investing in education, housing, employment and health.

20. The Howard League is a membership organisation with over 7,500 members and over 14,500 supporters. Members include over 1,500 people in prison, prison leavers and their families. The Howard League recognises the value of having input of people with direct experience of prison in the development of its work and actively seeks this, striving to amplify their voices as much as possible.

21. The Howard League operates on a cross-party basis, urging that criminal justice policy should not be left to the party politics and the competing ideologies that have caused so much damage in the justice system. To safeguard its independence, the Howard League does not accept funding from government. The charity is funded by voluntary donations, membership subscriptions, grants and legacy income.

22. The Howard League employs nineteen staff, of whom sixteen are full-time staff and three are part-time.

23. The Howard League is governed by a Board that meets quarterly to ensure that the charity is effectively run and is meeting its overall purpose as set out in its governing documents. The Chair of the Board works closely with the charity's Chief Executive, providing necessary support and periodic appraisal. The charity has an independent Council which advises the Board and staff, acting as a sounding board, helping to make connections and otherwise supporting the charity's work. The Council meets twice a year, engaging as necessary between meetings.

24. In addition to the Board and the Council, the Howard League also has a Finance, Audit and Risk Committee that meets quarterly to consider financial strategy, regular management accounts and cash flow, and to deal with any sensitive human resources matters. The Treasurer chairs the Finance, Audit and Risk Committee and works closely with the Operations Director in support of strong financial management.

25. The Howard League is engaged in a mix of campaigns, policy work and legal work, including:

a. Running public campaigns that harness evidence and get key messages to a larger number of people to help them better understand the drivers of crime, the realities of prison and the alternatives;
b. Working with politicians to build their understanding of the evidence-base and the impact of prison on individuals and society more broadly. We do this through providing briefings to relevant stakeholders, issuing publications, submitting evidence to government departments, taking politicians into prisons, and encouraging engagement with people in prison and their families;
c. Conducting strategic litigation, blending our legal expertise with policy work and communications to highlight the problems with the overuse of prison, including through public law and human rights challenges;
d. Working with judges and the legal profession to strengthen the public's understanding of the impact of sentencing approaches. We do this through publications, roundtables and consultations with people affected by the issue at stake;
e. Carrying out public education activities to improve the quality of public discourse around punishment. This includes providing public education materials, working with the media, and encouraging direct engagement on our issues; and
f. Listening to our membership and those who contact the Advice Line. This gives us insight into what is happening in prison, and helps ensure the voices and experiences of those in prison are central to our work.

The Howard League's work

26. The Advice Line is the only dedicated legal advice line for children and young adults (aged 21 and under) in penal custody in England and Wales. Through the Advice Line, the Howard League facilitates access to justice for children and young adults by offering free and confidential legal advice and advocacy support for children and young adults in custody in England and Wales.

27. Qualified solicitors (employed by the Howard League) provide legal advice and advocacy support on a range of issues affecting children and young adults in custody, including their treatment, access to education, contact with family, progression through

their sentence and release planning (which includes entitlements to support from statutory services). The children and young adults who call may be on remand (having not yet been convicted or awaiting sentence), sentenced, and/or may have been recalled back to custody following release on licence in the community.

28. Children and young adults in the penal system are among the most vulnerable and disadvantaged groups in society, especially when it comes to obtaining effective access to justice. Many of the difficulties that children and young people in custody face with regards to their treatment and, for those sentenced, with regards to their progression through their sentence are not within the scope of legal aid and, as a result, most law firms and solicitors will not routinely advise on these issues. It is for this reason that the Advice Line is of crucial importance in delivering access to justice for children and young people in custody by providing free, confidential legal advice and advocacy support.

29. The Advice Line is the only resource of its kind in England and Wales. Each year, the Howard League works with approximately 300 children and young people, advising them on their rights in custody and upon release.

30. For legal issues faced by callers to the Advice Line which are not resolved after advising or advocacy, or which clearly require the involvement of a solicitor at the outset, the Howard League may represent the child or young person as a client, subject to our case selection criteria. If we are unable to do so, we will refer or signpost the child or young person to other solicitors or third sector organisations, as appropriate.

31. Beyond providing direct support, the Advice Line service also gives the Howard League an 'ear to the ground' to understand the issues that children and young adults in custody face. These insights inform the Howard League's strategic priorities, amplifying the voices of children and young adults impacted by imprisonment and driving systemic change so that future generations are not faced with the same challenges.

Impact of COVID-19 on the Howard League's work

32. The nature of the work that the Howard League ordinarily undertakes in relation to children and young people did not change as a result of the pandemic. In particular, the Howard League continued to:

    a. Maintain the Advice Line for children and young adults, including providing legal advice, advocacy, signposting, referring and making safeguarding referrals (a

rota system was introduced with one member of staff answering all calls to the Advice Line each day);

b. Carry out individual casework for children and young people on matters relating to prison, community care and public law issues, for example, parole and recall, early release, segregation, resettlement, challenges to local authorities, minimum term reviews and criminal appeals;

c. Engage with stakeholders and decision-makers on behalf of children and young people; and

d. Undertake ancillary work such as:

(i) Preparing trustee reports;

(ii) Preparing reports for funders;

(iii) Drafting consultation responses; and

(iv) Drafting briefings.

33. Whilst the nature of the work the Howard League ordinarily undertakes in relation to children and young people in custody did not change as a result of the pandemic, adjustments were made to the way in which the Howard League conducted its operations. In particular:

a. In-person visits to children and young people in custody initially stopped (and then gradually returned over the Specified Period);

b. Video-link visits were introduced (following pressure from the Association of Prison Lawyers, with respect to which the Howard League sat on the Executive Committee, to the Lord Chancellor);

c. Visits and assessments from professionals (for example, psychologists) became virtual;

d. Parole Board hearings moved from being in-person to virtual;

e. Independent adjudications stopped initially, then returned virtually; and

f. A switch was made from paper files to electronic files.

34. Subsequent to the Specified Period, many of the adjustments to the way in which the Howard League conducts its operations as set out in paragraph 33 have remained. For example: (i) electronic files continue to be used rather than paper files; (ii) prison visits by video-link are still offered alongside in-person visits; (iii) the default position is that Parole Board hearings continue to be conducted by video-link or as a hybrid hearing, with discretion for an in-person hearing if fairness requires it; and (v) independent adjudications continue to be conducted by video-link (with discretion for an in-person

hearing, albeit that this discretion appears not to have been used in practice – see paragraph 53 for further details).

35. The hours during which the Advice Line operated during the Specified Period reduced to between 9.30am to 10.30am and between 11am and 12pm daily to compensate for the intensity of work involved in one person answering all the calls each day.

36. It should be noted that the strategic focus of the Howard League has changed since it adopted a new strategy in 2023; however, this change did not occur a result of the pandemic. Historically, the Howard League not only advised and advocated on behalf of individuals who had called the Advice Line, but also took on matters arising through the Advice Line as cases wherever possible, providing children and young adults with legal representation as clients. This meant that, historically, we undertook a high volume of individual casework, funded by legal aid.

37. Under the Howard League's new strategy, we have moved away from individual client casework and now have a greater focus on wider strategic legal challenges and legal work addressing issues affecting the approximately 87,000 adults in prison, as well as children and young people in the children and young people secure estate, rather than focusing on children and young adults only. Whilst the Howard League does continue to provide tailored advice and advocacy support to children and young people on matters where legal aid is not available, we take on fewer cases where legal aid funding is available for other solicitors to provide advice and representation. We continue to take on cases where the matter arises out of an ongoing matter for a client, there are particular complexities or vulnerabilities, the issue is one of particular organisational concern, or it is required as a condition of our contracts with the Legal Aid Agency.

Observations of the experience of children and young people in custody during the Specified Period

38. As a preliminary point, in discussing with colleagues their experiences of working with and supporting children and young people during the Specified Period, one of the most prevailing themes was the sense of anxiety and fear that children and young people in custody felt during this time. In particular, they worried about not being there for their families and about the health of their elderly relatives. This worry was exacerbated by not knowing how long the situation would last.

Time out of cell, education and other activities

39. The Howard League already had significant concerns about the conditions in which children and young people were being held in YOIs prior to the pandemic, as highlighted in the case of *AB*, a legal challenge brought by the Howard League in 2017 on behalf of a 15-year-old boy being held in solitary confinement in Feltham prison (**Exhibit HL/05 [INQ000613082]**). In 2020, HMIP published a thematic report on separation in YOIs, finding that children who had been separated from their peers were subject to widespread solitary confinement, spending more than 22 hours a day locked in their cells (**Exhibit HL/06 [INQ000586968]**). Then, in response to the pandemic, the regime in YOIs, particularly in the earlier part of the Specified Period, was severely restricted. Most children were placed in prolonged solitary confinement and there was no face-to-face education, activities or therapies in any of the English YOIs, with only Parc (in Wales) offering some activities (**Exhibit HL/07 [INQ000498634]**). When education did start to resume during the Specified Period, this was slow and erratic, and did not return to pre-pandemic levels. For example, one caller to the Advice Line (a child) told the Howard League that the education they received consisted of some sheets on Maths and English being passed to them under the door of their cell to be completed in-cell. These sheets took approximately 25 minutes to complete per day. The child received no support to do this work and described the worksheets as basic, and not tailored to his learning needs or stage of education. Another child told the Howard League that his anger-management courses and art therapy been cancelled. This was typical of the experiences that children and young people were sharing with the Howard League's legal team at that time.

40. As with the children and young people's estate, the Howard League already had significant concerns prior to the pandemic about the impoverished regimes that some young adults were subject to in prison, even as compared to older adults. For example, in 2018 and 2019, we were inundated with calls from young adults about their treatment at Aylesbury prison, including a systemic practice of keeping them in conditions amount to solitary confinement. This led to us publishing a blog on 25 February 2020 entitled *'Aylesbury prison, one of the worst in the country'* (**Exhibit HL/08 [INQ000613085]**). The pandemic continued to have a devastating impact on time out of cell and meaningful activity being offered to young adults.

41. Children and young adults calling the Advice Line in the first few months of the pandemic described being kept in conditions amounting to solitary confinement, without face-to-face education or mental health support. Children and young people reflecting on their

experiences more than two years after the pandemic began described the impact on their mental health of spending so much time locked alone by themselves. Some children and young people told us that they were unable to remember life before the pandemic and that being locked up 23 hours a day felt "normal". Several described conditions in prison during the pandemic as dehumanising, referring to caging people rather than rehabilitating them.

42. Recent data collected by the Howard League shows that for each month from January 2024 to February 2025, children and young people in YOIs in England were still typically being kept in their cells for about 20 hours a day and were receiving less than 15 hours of education per week (**Exhibit HL/09 [INQ000613086]**). HMIP and Ofsted have also raised concerns about reduced time out of cell and declining access to education in prisons holding children. The watchdogs' thematic review, entitled *'A decade of declining quality of education in young offender institutions: the systemic shortcomings that fail children'*, published on 2 October 2024 (**Exhibit HL/10 [INQ000613087]**), sets out a bleak picture of steadily declining educational opportunities and quality, reduced work experience and work opportunities, and sharply reduced time out of cell for children.

Contact with families, friends and professionals

43. Face-to-face visits were suspended in prisons on 24 March 2020. They resumed (with restrictions) and were again suspended variously over the two years that followed. It is also of relevance that the small number of establishments holding children means that the average distance from home for children in custody is typically much greater than for adults. Visits would have been harder for many families prior to and during the pandemic anyway, regardless of restrictions. Children and young adults calling our Advice Line, together with members of the Howard League living in adult prisons, told us about the profound impact of not being able to have face-to-face contact with family and friends on their mental health and motivation in custody.

44. A suspension of visits also meant that children and young adults were unable to see their social/leaving care workers, Youth Justice Service/Probation workers or legal representatives in person, and instead were reliant on telephone and video calls. Advocates, who are normally onsite in the children and young people secure estate, also had to work remotely. The absence of external visitors not only affected children

and young people's access to services and support, but also reduced the opportunities for external scrutiny.

45. The pandemic saw the introduction of 'purple visits' – secure video calls which allowed people in prison to speak to family members and friends. Whilst the Howard League welcomed this development - and the subsequent implementation of the 'Secure Social Video Calling Policy Framework' (discussed further in paragraph 101) - it is notable that the roll-out of technology in adult prisons has generally been slow (discussed further in paragraph 80).

Staffing

46. Children and young people calling the Advice Line repeatedly raised staffing as a problem, echoing the views shared by the Howard League members and the findings of successive inspection reports. The result was that the prison's official stage in the National Framework (the roadmap for how prisons would operate as pandemic restrictions eased) bore little relation to reality, with insufficient staff to run the regime. Children and young people also described a deterioration in the quality of staff, with the better staff leaving, and relationships with staff became more utilitarian. Favoritism and bullying were a problem in some prisons.

47. Whilst the children and young people secure estate remains well resourced, there are nonetheless issues in terms of the deployment of resources. As noted by the Chief Inspector in his annual report for 2024, despite spending more than £300,000 per child in custody, inspectors "*often found wasted resources as teachers, health care staff and resettlement caseworkers were unable to access children due to shortages of frontline operational staff or meeting rooms. There was a lack of accountability for failures, despite large senior teams; for example, at Cookham Wood, there were 24 senior leaders in an establishment holding just 77 children*" (**Exhibit HL/11 [INQ000613088]**).

48. Staffing in prisons holding young adults also remains an issue, as highlighted in the recent thematic report by HMIP on purposeful activity, where it is noted that *"staff shortages were a recurring theme of our inspections where prisons struggled to deliver a consistent regime for prisoners, and insufficient staff resulted in short-notice cancellations of activities and planned time out of cell. Prisoners spoke of not knowing when they would be unlocked or for how long"* (**Exhibit HL/12 [INQ000613089]**).

49. As Phil Copple, Director General of Operations at HMPPS, told the Justice and Home Affairs Committee of the House of Lords on 1 April 2025, there was *"a massive deficit of officers* [coming out of the pandemic]". Prisons Minister, Lord Timpson, noted in the same evidence session that *"We are up to 97% of the desired staffing levels at the moment, but that does not mean everyone is in the right prison and has the right experience"* (**Exhibit HL/13 [INQ000613090]**).

Independent adjudication hearings

50. Rule-breaking is managed in prisons in England and Wales through formal disciplinary hearings that can condemn prisoners to solitary confinement and additional days of imprisonment. These formal disciplinary hearings are called 'independent adjudications'. There are a range of punishments available, including up to 42 days of additional imprisonment which are added onto the end of a prison sentence. In our briefing entitled *'Justice does not stop at the prison gate: Justice and fairness in prisons'* (**Exhibit HL/14 [INQ000613091]**) published in 2020, we highlighted how children and young people disproportionately experience independent adjudications and are overrepresented amongst the imposition of additional days.

51. Independent adjudication hearings were initially suspended following the Covid-19 restriction on regimes and visitors to prisons. Between 24 March and 22 June 2020 no independent adjudication hearings were conducted, nor were any additional days of imprisonment imposed. Quarterly figures for April to June 2020 show a 96% drop in the use of additional days compared to the same period in 2019 (**Exhibit HL/15 [INQ000613092]**).

52. On 22 June 2020, independent adjudication hearings resumed virtually. On 29 June 2020, Khyati Parmar, Senior Operational Policy Advisor at the MoJ exchanged emails with the Howard League's then Legal Director, Dr Janes, in which the MoJ acknowledged that *"virtual hearings have been introduced due to the effects of an unexpected pandemic, and the usual routes of planned consultations have not been possible, but we are keen to working iteratively to improve on the model/process."*

53. On 17 July 2020, the Howard League met with the MoJ to discuss the setup of virtual independent adjudications. We were told that there were 56 prisons who were referring cases to the independent adjudicator, but only 20 laptops were available for use and so laptops were being transported in taxis between prisons to enable to adjudications to take place. We raised concerns about the adequacy of the set-up for virtual

adjudications, in particular the lack of screen-sharing facilities to view CCTV footage, and the impact on procedural fairness.

54. On 15 August 2022, new guidance was centrally issued to prisons to re-allow independent adjudications to take place in person, at the independent adjudicator's discretion and when in the interests of justice to ensure common law fairness and compliance with Article 6. However, the Howard League has learned (through information received via Freedom of Information Act Requests) that no independent adjudication hearings have been held in person since the policy was updated (i.e. between August 2022 and April 2025).

Parole Board hearings

55. On 21 April 2020, Dr Janes, in her capacity as a regular Parole Board User Group ("**PBUG**") legal representative attendee, received a letter from Martin Jones, then Chief Executive of the Parole Board, about the steps that the Parole Board was taking to progress cases fairly and safety during the pandemic. This letter explained that the Parole Board had been obliged to pause all face-to-face hearings for the foreseeable future. Hearings were being converted to remote or paper hearings so that cases could continue to be progressed (**Exhibit HL/16 [INQ000613093]**).

56. The cessation of in-person visits meant that psychologists preparing risk assessments were not able to visit in-person to complete face-to-face assessments and instead undertook these by video link. It also meant that legal visits to prepare for Parole Board hearings also had to take place remotely rather than in-person.

57. In May 2020, we produced a briefing for the Justice Select Committee, '*Justice and Fairness under Covid-19 restrictions*' (**Exhibit HL/17 [INQ000613094]**) (The information from this Exhibit is set out in the Annex to this statement). This briefing highlighted how complex parole cases were being delayed due to the backlog of criminal cases in the courts and the impact of the pandemic on remand prisoners. In this briefing, we explained how the use of virtual hearings risked causing further disadvantage to already vulnerable individuals due to hearings being delayed or adjourned in instances where effective participation by a relevant party in a remote virtual hearing was not possible. For example, we were aware of hearings being cancelled on the basis that the Parole Board felt the case was too complex for a remote hearing or because of an inability to accommodate the additional needs of individuals.

58. In October 2020, the Parole Board issued *'Covid-19 Member Guidance'*, which consolidated and updated pieces of member practice guidance issued between 11 March 2020 and 9 July 2020. In this guidance, the following policies were paused:

a. Automatic granting of an oral hearing, if the prisoner cannot be released on the papers, for prisoners who are under the age of 18 at the point of referral (child cases); and

b. Presumption of an oral hearing, if release cannot take place on the papers, for prisoners aged 18 – 21 (inclusive) at the point of their referral (young adult cases).

59. These were policies that the Howard League had sought for many years to establish in order to ensure fairness for children and young people, having built an evidence base through our casework which showed the need for them. The decision to pause these policies was a significant, and highly regressive step.

60. On 8 March 2022, *'Interim Covid Guidance – Frequently Asked Questions'* was published on the Parole Board website, which replaced all previous Parole Board guidance issued in relation to Covid-19 (**Exhibit HL/18 [INQ000613095]**). Notably, the pause on these two policies (amongst others) was maintained.

61. The backlog of cases in criminal courts in England and Wales has increased substantially since the pandemic. For the children and young people with whom the Howard League is in contact, these tend to arise in particular in the context of delays to parole processes which are caused by the slowness of the system to deal with any new charges that have been brought.

62. Children and young people who spoke to the Howard League in 2021 as part of the remand project explained that they were not treated any differently in prison because of their remand status, including when they had not been convicted of an offence and remained legally innocent. Though children on remand are ordinarily allowed more visits than sentenced children, the restrictions on visiting due to the pandemic made this meaningless at the time of the project. The only remaining difference was that children on remand were allowed to access and spend more money each week.

63. In a thematic on children on remand (November 2023), HMIP found that the development of virtual and telephone meetings during the pandemic meant that

community professionals, particularly social workers, were much less likely to attend remand planning meetings in person (**Exhibit HL/19 [INQ000613096]**).

Remand

64. Although the number of children sentenced to custody has fallen dramatically over the past two decades and remains on a downward trajectory, remand decision-making has not followed the same pattern. Whilst the number of children in prison on remand has reduced, they have become a growing proportion of children in custody. Over the first year of the pandemic, the average number of sentenced children in custody fell by a third because of court decisions and delays. However, the number of children in custody on remand fell by only 2% – an average of six fewer children in prison each month. By June 2021, nearly half of the children and 18 year olds in youth custody were on remand. The starkest racial disparities in the criminal justice system are found in remands in the children and young people secure estate, with Black boys in particular being over-represented, both before and since the Specified Period.

65. Even before the Specified Period, the average length of time which children spent in custody on remand was increasing. From March 2020 onwards, the restrictions introduced to cope with the pandemic compounded existing court backlogs. Trials were delayed while youth court closures led to fewer bail and remand hearings. Children spent longer on remand than normal, in significantly worse circumstances.

Release and resettlement planning

66. One of the issues that lawyers at the Howard League advised most regularly on during the Specified Period was that of release and resettlement.

67. Legal duties to support and accommodate children leaving prison remained but difficulties in contacting families and professionals made planning for release especially problematic. The Howard League witnessed the processes that support this planning for children leaving prison slow down during the pandemic, as professionals struggled to complete required assessments and multi-agency planning became more difficult. It was also more difficult to secure appropriate accommodation for children and young people in the community, particularly where this was shared accommodation with other children and young people, given the pandemic restrictions on 'bubbles'.

68. Young adults in contact with the Howard League described experiencing huge problems in sourcing suitable packages of accommodation and support during the Specified Period. One young adult told the Howard League that his probation officer said she recalled him to custody as she could not find alternative accommodation due to the coronavirus. Another young adult remained in custody even after his approved early release date due to lack of support from probation and social services in finding and approving accommodation, until the Howard League threatened legal action.

Creation of coronavirus offences

69. Through the Advice Line and the clients represented by Howard League lawyers individually, we became aware of some of the ways in which the creation of coronavirus offences impacted on children and young people in the YJS.

70. By way of illustration, a client was given a warning on licence for not complying with Covid-19 restrictions and this was also cited as one of the reasons why he was recalled to custody.

71. We also received anecdotal evidence regarding concerns amongst family members about leaving the house at the height of lockdown (April 2020) following the creation of coronavirus offences. In one instance, a woman was worried about travelling to pick up her relative following his release from prison and not having proof on her to justify her journey. The Howard League assisted the woman by copying her into an email to professionals in case this was needed as evidence to demonstrate that her journey was justified if she was stopped by police on the way to collect her relative.

Steps taken to mitigate the impact of the pandemic

72. Through anecdotal evidence obtained from a variety of sources, including the Advice Line and individual casework, and through our contact with the YCS and HMCTS during the Specified Period, we are aware of a number of actions taken to mitigate the impact of the pandemic on children and young people.

73. At the outset of the pandemic, the Howard League made enquiries about what additional support children and young people in the children and young people secure estate were entitled to. On 8 April 2020, the then Legal Director, Dr Janes, received an email from the Executive Director of the YCS attaching a letter dated 7 April 2020 (**Exhibit HL/20 [INQ000613097]**) which explained the following:

a. That children and young people all had access to telephones in their rooms and were provided with allocated additional phone credit and phone lines were opened for longer periods of time;

b. That the YCS had developed a set of core principles guiding their approach to running a child-focused service in line with health advice that is safe for children and staff; and

c. That each day children and young people were offered time in the fresh air with two other children/young people; access to a shower; distraction packs and educational materials and PE support & information about 'in-room' workout/fitness regimes.

Phone credit

74. Whilst access to additional phone credit continued throughout the pandemic, the Howard League did encounter instances where children and young people were left without phone credit. For example, in one case, a child at a YOI who usually spoke to his mother every day had run out of phone credits so he was not be able to call her again until the next day.

Social visits

75. Following the lockdown restrictions enforced at the beginning of January 2021, the YCS was able to remain at a 'Stage 3 regime' which enabled the continuation of social visits (albeit taking place virtually where possible).

Access to TV

76. In April 2020, we wrote to the Governor of HMYOI Cookham Wood ("**Cookham Wood**") after a young person had had their television taken away for multiple days due to poor behaviour. On 24 April 2020, we received an email from the Governor of Cookham Wood confirming that televisions should not be removed from children and that the individual's television had been returned.

77. However, on 30 April 2020, the Howard League received a further letter from a different member of staff at Cookham Wood. This letter followed an enquiry by the Howard League about the Incentives Earned Privileges policy in place at the establishment. The letter stated that every child and young person was given a television and an X-box

despite their Incentives Earned Privileges level, due to the amount of time they were spending in their cell; however, these could be removed for poor behaviour. These different responses about the same issue of access to television highlights the confusion that sometimes arose even within the same establishment about the adjustments that were being made to usual processes on account of the pandemic.

78. In December 2020, the UK Government's response to the publication of the Justice Committee's Fourth Report of Session 2019-21, Coronavirus (Covid-19) stated that some of the mitigations in place included free television (**Exhibit HL/21 [INQ000613110]**).

Access to laptops

79. In July 2021, children at Cookham Wood YOI were provided with laptops which had access to the MoJ's 'Content Hub' (**Exhibit HL/22 [INQ000613111]**). The MoJ committed to rolling out access to laptops to the rest of the YOIs in England and Wales by the end of that financial year. Although we do not have access to information to confirm when this was done, it is our understanding that all children in YOIs have access to in-cell devices today.

80. The roll-out of digital access for young adults - and other people in adult prisons - has been much slower. In 2021, the prison service published its 'Digital, Data & Technology Strategy' (**Exhibit HL/23 [INQ000613112]**) that included a commitment to *"Give people in our care the digital tools & technology to support their rehabilitation"*. This included an ambition that every person in closed prison would have access to a laptop or tablet. By September 2024, however, only around 15% of people in public sector prisons had access (**Exhibit HL/24 [INQ000613113]**). Even those who do have access have raised issues about efficacy (see HMIP report on prisoner complaints at **Exhibit HL/25 [INQ000613114]**.

Howard League's legal and policy work relating to people in prison, including children and young people specifically, during the Specified Period

Correspondence with Lord Chancellor & Secretary of State for Justice and the Minister for Prisons and Probation

81. The Howard League corresponds regularly with Government Ministers in the MoJ, most often the Lord Chancellor and Secretary of State for Justice, and the Minister for Prisons and Probation.

Correspondence relating to the Government's initial pandemic response

82. On 11 March 2020, the Howard League's then Chief Executive, Frances Crook, wrote a letter to the then Lord Chancellor & Secretary of State for Justice, Rt Hon Robert Buckland QC MP. This letter requested an explanation of the steps being taken to protection people in prisons and the community in light of the pandemic. The Howard League has no record of receiving a response from the Rt Hon Robert Buckland KC MP or the MoJ to this letter.

83. On 17 March 2020, the Howard League's then Chief Executive, Frances Crook, wrote a letter to the Rt Hon Robert Buckland QC MP calling for (inter alia) children not to be remanded in custody unless there are wholly exceptional circumstances (**Exhibit HL/26 [INQ000613115])**. The Howard League does not have a record of receiving a response to this letter.

84. On 27 March 2020, the Howard League, in conjunction with Prison Reform Trust, wrote a private letter to the Rt Hon Robert Buckland QC MP calling for action to be taken immediately and on a significant scale to release prisoners who could safely be released, in the interests of preserving life (**Exhibit HL/27 [INQ000613116]**). On 30 March 2020, we received a private letter from the Rt Hon Robert Buckland QC MP in response (**Exhibit HL/28 [INQ000613117]**). The Howard League, in conjunction with Prison Reform Trust, responded to this letter the same day (**Exhibit HL/29 [INQ000613118]**). On 31 March 2020, we received a further response from the Rt Hon Robert Buckland QC MP (**Exhibit HL/30 [INQ000613119]**). It should be noted that the letters exchanged between 27 and 31 March 2020 did not refer to children or young people specifically. The chain of correspondence exchanged with the Rt Hon Robert Buckland QC MP led to the Howard League publishing a letter to the Rt Hon Robert Buckland QC MP on 1 April 2020, as well as a report by Professor Richard Coker, Emeritus Professor of Public Health at The London School of Hygiene and Tropical Medicine, on the risks of Covid to people in prison (**Exhibit HL/31 [INQ000613120]**).

85. On 17 April 2020, lawyers acting on behalf of the Howard League and Prison Reform Trust sent a pre-action letter to the Rt Hon Robert Buckland QC MP, in his capacity as Secretary of State for Justice (**Exhibit HL/32 [INQ000613121]**). Legal proceedings were not subsequently issued. However, in the lead-up to the response to our pre-action correspondence a large amount of information that was not previously in the public

domain was made publicly accessible, as we had requested, which provided clarity about the action that government was taking, and intended to take going forward, in response to the pandemic.

Correspondence relating to the furlough scheme

86. The Howard League represented a young adult who was employed in the community from open conditions, who had been told he was ineligible to register under the Coronavirus Job Retention Scheme ("**furlough scheme**"), despite his employer supporting this step. Only after an intervention from the Howard League lawyers did the government accept it was open to an employer to apply to register a person in prison for the furlough scheme (**Exhibit HL/33 [INQ000613122]**).

87. Unfortunately, this confirmation was provided only on the eve of the deadline for registration of the scheme. A note was immediately sent to all establishments, and followed up with specific contact to Governors of open establishments, to confirm that a prisoner with an employment contract could apply to be registered for the CJRS. Noting the short timescales, establishments were asked to contact relevant external placement providers as a matter of urgency to bring this to their attention. HMPPS also contacted HMRC as the scheme operators, to alert them to the situation. On 29 June 2020, the Howard League's then Chief Executive, Frances Crook, wrote to the Rt Hon Robert Buckland QC MP to raise concern that employed prisoners had not been informed in a sufficiently timely manner that they could be eligible for the furlough scheme and to ask that a grace period be extended to allow people in prison to be registered for the furlough scheme after the deadline (**Exhibit HL/34 [INQ000613123]**). A response was received on 17 July 2020 declining to extend a grace period to register employees (**Exhibit HL/35 [INQ000613124]**). The Howard League were contacted by many affected prisoners after the deadline and referred them to Bhatt Murphy, who took on a group civil action on behalf of those who had missed registering with the scheme.

Correspondence relating to the extension to custody time limit regulations

88. The Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2020 came into force on 28 September 2020. On 16 September 2020 the Howard League, in conjunction with Just for Kids Law and Liberty, wrote a joint letter to the then Secretary of State and Lord Chancellor, Robert Buckland QC MP, expressing concerns about the impact of extending custody time limits ("**CTL**") on children in the YJS and, in particular, the impact on Black and minority ethnic children (a

disproportionate number of whom are remanded to prison) (**Exhibit HL/36 [INQ000498652]**). In this letter, we requested that the extension of CTL be withdrawn, failing which, that a relevant impact assessment and consultation with relevant stakeholders, including the Children's Commissioner, be undertaken prior to making changes to CTL.

89. On 25 September 2020, a response to this letter was received from Lucy Frazer QC MP, then Minister of State in the MoJ (**Exhibit HL/37 [INQ000613126]**).

90. On 30 September 2020 a further joint letter from the Howard League, in conjunction with Just for Kids Law and Liberty, was sent to Lucy Frazer QC MP requesting confirmation as to whether a Child Rights Impact Assessment had been completed. This letter also contained a renewed request that the extension of CTL be withdrawn (or, at the very least, for children to be excluded from the extension) (**Exhibit HL/38 [INQ000613127]**).

91. On 13 October 2020 a further response from Lucy Frazer QC MP was received (**Exhibit HL/39 [INQ000613128]**), which included a link to the UK Government's Equality Impact Statement (**Exhibit HL/40 [INQ000613129]**). This noted that *"we consider that temporarily extending the CTL in the Crown Court in respect of those awaiting a trial will also* disproportionately *impact on people with these protected characteristics* [i.e. children and defendants who are Black/minority ethnic]".

92. In January 2021, following pre-action correspondence sent by Just for Kids Law, the UK Government reversed its position and agreed that it would exempt children from the extension to CTL. The Regulation exempting children, contained within The Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2021, came into force on 19 February 2021. The exemption applied retrospectively to children who had had their CTL extended under The Prosecution of Offences (Custody Time Limits) (Coronavirus) (Amendment) Regulations 2020, meaning that all children remanded at the Crown Court would have a custody time limit of 182 days even if their first appearance took place prior to the laying date of the new regulations (**Exhibit HL/41 [INQ000613130]**).

93. On 11 January 2021, the Howard League provided a written submission to the House of Lords Constitution Committee Inquiry into the impact of Covid-19 on the operation of the courts, in particular, how the criminal case backlog and extension to CTL had affected prisoners awaiting trial (**Exhibit HL/42 [INQ000613131]**).

Correspondence relating to the dilution of children's legal protections in custody

94. On 3 September 2021, the Howard League, in conjunction with Article 39, wrote a joint letter to the Rt Hon Robert Buckland QC MP (still Lord Chancellor and Secretary of State for Justice), expressing concerns about Covid-19 and the dilution of children's legal protections in custody (**Exhibit HL/43 [INQ000613132]**). On 12 October 2021, the then Minister of State for Prisons and Probation, Victoria Atkins MP, responded to our letter (**Exhibit HL/44 [INQ000613133]**). On 22 October 2021, in conjunction with Article 39, we responded to this letter expressing our continued concern that no children's rights impact assessments or equality impact assessments were undertaken for emergency changes to secondary legislation and asking for both statutory instruments to be revoked (**Exhibit HL/45 [INQ000613134]**).

Meetings with the MoJ, HMPPS, the YCS and other bodies

95. The Howard League meets regularly with senior leaders in the YCS and with senior civil servants at the MoJ and HMPPS as well as with the Chief Inspector and other senior leaders at HMIP.

96. Most recently, our meetings with the YCS have involved quarterly meetings between our Chief Executive and the Executive Director of YCS. The purpose of these meetings is to discuss at a high-level strategy and updates. There are also monthly meetings between our Legal Director, one of our Managing Solicitors and senior operational staff at the YCS. The purpose of the monthly meetings is to discuss a mix of operational issues (for example, if we have concerns about a particular prison, or a particular issue in a prison, having received information from someone on the Advice Line, witnessed an issue ourselves during a visit or a concern has been reported by HMIP in an inspection report), together with high-level discussions about wider strategic issues (for example, where girls should be placed, the YCS' strategy or the secure school opening).

97. We also meet regularly with HMIP and are in contact with HMIP's Team Leader for Children and Young People. These are informal discussions on an *ad hoc* basis to share issues arising from our work and vice versa.

98. I understand that the Howard League's then Legal Director had regular contact with both the YCS and HMIP's Team Leader for Children and Young People, to ensure that we were up to date on what children are experiencing and could expect during the pandemic. Due to the passage of time and the fact that the Legal Director involved is

no longer working at the Howard League, I am unable to provide further details regarding this.

99. The Howard League is involved in many regular meetings with the MoJ and HMPPS, including as a stakeholder on the Use of Force Expert Advisory Panel, the Segregation Expert Advisory Group and the Safety Learning External Stakeholder Forum, and as part of the External Stakeholder Challenge Group for IPP sentences.

100. On 15 December 2020, 3 February 2021, 1 July 2021, and 21 September 2021, the Howard League met with officials from HMPPS as part of a series of meetings on safety in custody more generally.

101. In March 2021, the Howard League attended a discussion hosted by HMPPS about the use of social video calls on a long-term basis. This led to the implementation of the 'Secure Social Video Calling Policy Framework' issued by the MoJ and HMPPS (**Exhibit HL/46 [INQ000613135]**).

102. On 14 June 2021, we were consulted at a HMPPS roundtable on the long-term future of prisons. We followed up our attendance at this meeting with a letter to Michelle Jarman-Howe, Chief Operating Officer for Prisons at the MoJ, on 5 July 2021 (**Exhibit HL/47 [INQ000613136]**). In this letter, we recommended (*inter alia*) closing YOIs and STCs and using only local authority-run secure children's homes for the few children who required custody. We also commented on the fact that the fall in the number of children in custody over the past decade showed that it is possible to decarcerate in a safe way that does not increase crime.

103. On 19 January 2022, the Howard League met with MoJ officials as part of the development of the Prisons Strategy White Paper (**Exhibit HL/48 [INQ000613137]**). On 4 February 2022, following this meeting, we submitted a response to the White Paper (**Exhibit HL/49 [INQ000613138]**).

104. On 25 April 2022, we attended a stakeholder discussion group held by HMPPS to discuss a draft Compartmentalisation and Isolation Policy Framework. The policy can be found at **Exhibit HL/50 [INQ000591415]**.

105. The Howard League is a member of the Ministerial Board on Deaths in Custody ("**MBDC**"). The purpose of the MBDC is to bring about a continuing and sustained reduction in the number and rate of deaths in all forms of state custody in England and

Wales. Representatives from the Howard League attend regular meetings of the MBDC. During the Specified Period, we attended meetings on 7 July 2020, 22 July 2020, 9 June 2021, 30 November 2021, and 3 May 2022 (although the published minutes refer to the meeting taking place on 23 May 2022).

Letter to the senior judiciary concerning decision-making in relation to children in the criminal courts

106. On 26 March 2020, the Howard League sent a letter to the senior judiciary with responsibility for children concerning decision-making in relation to children in the criminal courts in light of the pandemic (**Exhibit HL/51 [INQ000613140]**). The letter was co-signed by a number of other organisations, including Article 39, Just for Kids Law and the Chair of the Criminal Bar Association. In this letter, we encouraged the judiciary to conduct anxious scrutiny on remanding children in custody and encouraged judges not to impose custodial sentences on children at that time. It is understood that that guidance was issued in line with the suggestions made by the Howard League in the letter.

Submissions to Select Committees of the House of Commons and the House of Lords

Submissions to the Justice Select Committee on the need to reduce the prison population

107. Between 2 April and 7 May 2020, the Howard League produced a series of weekly submissions to the Justice Select Committee (**Exhibit HL/52 [INQ000613141], Exhibit HL/53 [INQ000613142], Exhibit HL/54 [INQ000613143] and Exhibit HL/17 [INQ000613094]**) (The information from these Exhibits is set out in the Annex to this statement), urging them to press the UK Government to act to reduce the prison population. Whilst these briefings were not focused solely on the experiences of children and young people in custody, they were informed by anecdotal evidence of the experiences shared by callers to the Advice Line and individual casework undertaken by the Howard League.

108. On 2 June 2020, the Howard League produced a submission to the '*Justice Select Committee for Evidence Session on Coronavirus (COVID-19): The impact on prison, probation and court systems in the YJS*' (**Exhibit HL/55 [INQ000613145]**) (The information from this Exhibit is set out in the Annex to this statement). This set out our key concerns, particularly in relation to: (i) children not being released from custody under the Covid-19 temporary release schemes; (ii) the safeguards employed to protect

children in solitary confinement; and (iii) the plans to resume meaningful education for children in custody.

Briefing to the Education Committee in response to their inquiry into prisoners' education

109. In January 2021, the Howard League made a submission to the Education Committee's Inquiry, *'Education: Are prisoners being left behind?'* (**Exhibit HL/56 [INQ000613146]**) (The information from this Exhibit is set out in the Annex to this statement). Our submission focused on children and young adults. It made broad arguments about the education system not being fit for purpose and generally being inadequate. At the time, we were of the view that the pandemic had highlighted the fragility of educational provision in prison and the low value placed on it.

Evidence provided to the Public Administration and Constitutional Affairs Committee in response to their inquiry into the Coronavirus Act 2020

110. On 10 January 2022, the Howard League provided written evidence to the Public Administration and Constitutional Affairs Committee's inquiry into the Coronavirus Act 2020 ("**the Coronavirus Act**") (**Exhibit HL/57 [INQ000613147]**) (The information from this Exhibit is set out in the Annex to this statement). At this time, we had concerns about the secondary legislation authorised under the Coronavirus Act, which severely curtailed access to education, visits and exercise for people in prison, and which were brought in with virtually no parliamentary scrutiny.

Letter to the Director of Public Prosecutions relating to application of the public interest test

111. On 16 June 2020, the Howard League wrote to the then Director of Public Prosecutions, Max Hill QC, about his guidance published on 24 April 2020 encouraging a critical response in application of the public interest test in the early days of the pandemic (**Exhibit HL/58 [INQ000613148]**). In this letter, the Howard League highlighted the dire situation of children remanded in custody, in particular the impact of the uncertainty of awaiting trial in prison on their development and life chances.

Correspondence/meeting with the PPO to discuss investigations

112. On 1 July 2020 , the Howard League wrote to the then PPO, Sue McAllister, expressing concerns regarding investigations, in particular: (i) delays in progressing investigations;

(ii) delays in investigating complaints raising safeguarding concerns; (iii) concerns regarding the quality of the investigations being undertaken; and (iv) delays in a post scanning service being implemented (**Exhibit HL/59 [INQ000613149]**). A meeting was held with Sue McAllister and Susannah Eagle on 13 July 2020 to address the concerns.

Research and publications by the Howard League

2020 research and publications

113. In 2019, prior to the pandemic, the Howard League was granted funding for a three-year legal, children and young people-led project. The aim of the project was to empower children and young people in custody to understand and use the law to achieve better outcomes for themselves. The Howard League conducted an analysis of enquiries to the Advice Line and decided that the focus of the first year of the project would be isolation in custody, as this was one of the most common issues raised.

114. The project started in March 2020 and, when the pandemic hit, the first year of the project was adapted to focus on isolation in custody in the context of the pandemic.

115. In the first year of the project, two briefings about the experiences of children and young people in custody during the pandemic were published. The first briefing, entitled *'Children in prison during the Covid-19 pandemic – A briefing from the Howard League for Penal Reform'* (**Exhibit HL/07 [INQ000498634]**), was published in May 2020 and focused on the experiences of children in custody. The second briefing, entitled *'Young Adults in prison during the Covid-19 pandemic – A briefing from the Howard League for Penal Reform'* (**Exhibit HL/60 [INQ000569767]**), was published in June 2020 and focused on the experiences of young adults in custody.

116. Both briefings were informed by the information obtained from children and young adults in custody who contacted the Advice Line for advice on a daily basis. At the end of every call (where appropriate and time permitting), the member of staff speaking to the child or young adult would ask them if they could describe the current regime in their prison. During the call, staff would also obtain information about the child or young adult, including their age, health, and access to essentials such as access to: (i) phone credit and contact; (ii) television, (ii) food; (iii) education; (iv) fresh air; (v) exercise; and (vi) showers. The views and experiences of the children and young adults spoken to were recorded by staff and collated centrally into a table. Staff also recorded any other

information that children and young adults wished to share, together with quotes provided and which the child or young adult consented to the Howard League using in the charity's wider work. Staff collated updates from repeat callers to get a sense of how the ongoing isolation affected children and young adults over time. These calls provided the Howard League with a snapshot of the experiences of children and young adults in custody across England and Wales.

117. For *'Children in prison during the Covid-19 pandemic – A briefing from the Howard League for Penal Reform'* (published in May 2020) (**Exhibit HL/07 [INQ000498634]**), we recorded the views and experiences of approximately thirteen children and 18-year-olds held in the children's estate between March and April 2020. For *'Young Adults in prison during the Covid-19 pandemic – A briefing from the Howard League for Penal Reform' (published in June 2020)* (**Exhibit HL/60 [INQ000569767]**), we recorded the views and experiences of approximately twenty-four young adults in custody between March and May 2020. All of the children and 18-year-olds in the children and young people secure estate whose views were recorded were held in YOIs (except one child who was in an STC). All of the young adults whose views were recorded were held in adult male prisons.

118. Both briefings were informed by the experiences shared with the Howard League via the Advice Line by a relatively small number of children and young adults (approximately 37 in total). It is also important to note that we could not always obtain any information/information on each topic from the caller for a variety of reasons, including: (i) the limited time for calls, noting that the purpose of each call to the Advice Line was primarily for children and young people to obtain legal advice; and (ii) the callers' vulnerabilities. Similarly, no monitoring was undertaken to ensure that any information obtained from the caller to the Advice Line was recorded centrally into the table.

119. The information recorded and collated centrally by the Howard League from callers to the Advice Line is only one part of the wider picture. To supplement the knowledge gained from callers to the Advice Line in custody for the briefings, the Howard League also gained an understanding of the impact of pandemic on children and young people in custody through the individuals we represented in individual casework and their family and friends, together with criminal justice professionals, including advocates, prison staff, probation staff and lawyers. This was anecdotal evidence which we did not record and collate centrally.

120. The views of children and young people in custody whom we represented, and those of their families, friends and professionals, supplemented what the Howard League already knew about the general conditions of penal detention for children and young people, and the needs and characteristics of those children and young people.

121. The withdrawal of support and advocacy services due to the pandemic gave children and young people in custody even fewer opportunities than usual to describe what they were going through. The focus of the Howard League's briefings was thus to bring the voices and experiences of children and young people stuck in prison during the pandemic into the wider community.

122. On 11 June 2020, the Howard League participated in a webinar with Doughty Street Chambers considering *'Child rights in the time of coronavirus'* (**Exhibit HL/61 [INQ000587866]**).

123. On 2 July 2020, exactly 100 days after Covid-19 restrictions were introduced in custodial settings, the Howard League issued a press release entitled '*100 Days of Solitude: The impact of coronavirus in prisons'* (**Exhibit HL/62 [INQ000613153]**). The purpose of this was to call upon the UK Government to provide a decent and purposeful Covid-19 regime in prisons. The press release drew on material from the briefings discussed in paragraphs 115 to 117 regarding the experiences of children and young people in custody. The press release included a statement from the Howard League's then Chief Executive, Frances Crook, who edited and approved it for distribution to the media.

124. In July 2020, the Howard League produced a leaflet entitled '*Your Rights During Covid-19'* (**Exhibit HL/63 [INQ000613154]**). The aim of this leaflet was to increase legal knowledge among children and empower them to understand and enjoy their rights. The artwork in the leaflet was created by a child in prison. With support from the YCS, the leaflet was sent to every child in prison. We received requests for additional copies from STCs and SCHs. We also sent the leaflet out to clients who we are in contact with from our individual casework.

2021 research and publications

125. The second year of the children and young people-led project, from March 2021, focused on the surge in the use of remand for children in prison. The project was informed by and built on the Howard League's longstanding work with children on remand, including advising and advocating for children calling the Advice Line and

individual legal casework for children who had been remanded to custody for extended periods, but who could have been living safely in the community if the right support had been in place. It also followed on from a webinar entitled *'Ending indefinite pre-trial detention of children'* held in April 2020, in partnership with Garden Court Chambers, and the subsequent publication of a practical guide, in May 2020, entitled *'Ending the detention of unsentenced children during the Covid-19 pandemic – A guide for practitioners'* (**Exhibit HL/64 [INQ000613155]**). The purpose of this guide was to support criminal defence lawyers with: (i) resisting court applications to remand children to custody during the pandemic; and (ii) making effective bail applications for children during the pandemic.

126. In March 2021, Howard League lawyers began working with staff at a children's prison to identify children on remand with unmet legal support needs with a view to understanding why they were there and to see if they could be supported to get bail.

127. Howard League lawyers carried out legal casework for eight boys, all of whom were subsequently acquitted or sentenced. The Howard League wrote to children, reviewed their documents and liaised with their YOT workers and (where relevant) local children's services. In four cases, the Howard League wrote letters of mitigation which were used at children's sentencing hearings. Alongside its work with individual children, the Howard League reviewed the academic and policy literature on remand and reflected on the legal and policy issues arising in its casework. In September 2021, we published a briefing entitled *'What's wrong with remanding children to prison*' (**Exhibit HL/65 [INQ000498671]**) which summarised the legal issues faced by children on remand.

2022 research and publications

128. In January 2022, the MoJ published a review of remand which identified the critical importance of keeping the use of remand to a minimum and confirmed many of the findings from the first briefing referred to in paragraph 127.

129. The Howard League's second project briefing for the second year of this project was entitled *'Children on remand: voices and lessons'* (**Exhibit HL/66 [INQ000613157]**) and was published in May 2022. This briefing focused on the experiences, voices and lessons to be learned from five children and young people that the Howard League met with in Autumn 2021 who had been remanded to a children's prison.

130. These briefings were informed by the experiences of a relatively small number of children and young people on remand (13 in total). However, they were also informed by the Howard League's longstanding legal work, both through the Advice Line, as well as individual casework, with children and young people on remand.

131. In 2022, the Howard League published a series of blogs reflecting on the pandemic and its impact on people in prison. The first three blogs, published in March and April 2022, were based on written surveys completed by the Howard League's members and their family members (**Exhibit HL/67 [INQ000569765], Exhibit HL/68 [INQ000613159] and Exhibit HL/69 [INQ000613160]**). Members are all over 18 years old and it is not possible to confirm the age of those who completed the relevant surveys. The blogs do not refer to children or young adults specifically.

132. A fourth blog entitled *'Young people's experiences of prison during the pandemic'* (**Exhibit HL/70 [INQ000613161]**) was published on 6 May 2022. The research that informed this blog drew upon data collected by the Howard League from approximately twenty-two children and young people who had called the Advice Line in April 2022. The callers were asked a set of standardised questions about what life was like in prison during the pandemic. Their views and experiences of life in prison during the pandemic were recorded and collated centrally by staff.

133. A fifth and final blog entitled *'The prison system after Covid19'* (**Exhibit HL/71 [INQ000613162]**), was published on 26 May 2022. This blog summarised the series of the four earlier blogs discussed at paragraphs 131 to 132. It also considered the Howard League's recent policy response to the *'Prisons Strategy White Paper'* published by the MoJ in December 2021 (**Exhibit HL/49 [INQ000613138]**).

134. The five blog posts published in 2022 by the Howard League reflecting on the pandemic and its impact on people in prison were informed by the experiences shared with the Howard League by a relatively small group of people, in particular, approximately 35 responses from adults in prison and their family members, together with information obtained from approximately 22 callers to the Advice Line callers (conversations with 22 children and young people).

Nature of research

135. The research that informed the work undertaken by the Howard League as set out above was not empirical research; it was participatory and user-led as result of children and young people calling the Advice Line to discuss their issues and concerns. These calls allowed us to hear their experiences and gather an understanding of what was generally going on in establishments in which they were held. The evidence was further informed by observations made by the Howard League staff when speaking to children and young people calling the Advice Line.

136. The work was also informed by information shared with the Howard League by professionals, including the YCS, the Office of the Children's Commissioner, HMIP and professionals working in prisons, which corroborated what children and young people were describing to the Howard League when using the Advice Line. The fact that these independent sources of information corroborated each other gave the Howard League a more rounded sense of the impact of the pandemic on children and young people in custody. For this reason, our view is that the limitations in the research conducted by the Howard League, namely the type of research and sample size of individuals that contributed to the research, did not impact the strength of the research nor the strength of the research conclusions.

137. The information shared with the Howard League via the Advice Line and by professionals also supplemented what was already known about the general conditions of penal detention for adults, children and young people, together with the needs and characteristics of those young people.

138. It should be acknowledged that there was variation between custodial establishments in terms of their response to the pandemic. As lockdown eased based on a 'roadmap' of levels of restrictions being lifted (based on factors such as infection rates and geographical areas), not all prisons responded by easing restrictions at the same rate. Given the relatively small sample size, it is unlikely that all of these variations were known to the Howard League at the time. Nonetheless, as we heard from children and young people in different custodial establishments, we were able to gain insight into, and an understanding of, what some of this variance looked like in reality. This was particularly helpful as lockdown regimes were introduced and established at different speeds across the estate.

Work by the Howard League since the Specified Period

139. Since the Specified Period, the Howard League has continued to undertake project work on the functioning of the prison system since the pandemic. This includes projects on the experiences of children on remand (dated 2021/2022) and young adults on remand (dated 2023). We have also produced legal resources for children and young people who have been recalled, and those convicted of murder as children who are serving a particular type of life sentence called 'Detention at His Majesty's Pleasure.'

140. We continue to run the Advice Line, and note that some of the challenges faced by children and young adults in custody relate to issues which have been exacerbated by the pandemic. For instance, we often hear from children and young people in YOIs and prisons who are spending over 22 hours a day in their cell in conditions of solitary confinement without access to a meaningful regime or purposeful activity. We also hear from children in YOIs who are not receiving sufficient access to education. Data that we have obtained through Freedom of Information Act requests corroborates what we are hearing through the Advice Line about purposeful activity and access to education in the children and young people estate. In 2024, MoJ statistics showed that HMYOI Werrington, HMYOI Wetherby and HMYOI Feltham failed routinely to deliver enough purposeful activity during the week, with children spending even longer in their cells at weekends. None of these three prisons at any time reached an average education delivery above the weekly 15 hours mandated by law for children of statutory school age (**Exhibit HL/09 [INQ000613086]**).

141. The Howard League has not conducted any specific monitoring or assessment of any disproportionate impact of the pandemic on any individual groups of children and young people in the YJS. Nor have we carried out any research projects on the lasting impact of the pandemic on children and young adults in prison. We do not have any current plans to do so.

142. We draw the Inquiry's attention to the paper entitled *'Unmasked and Exposed: The Impact of* COVID-*19 on the Youth Custodial Estate. A Compelling Case for Ideological Change*' written by Hannah Smithson and Deborah Jump and published in The British Journal of Criminology in November 2024.

143. In 2020, the Women and Equalities Committee launched an inquiry entitled *'Unequal impact:* Coronavirus *(Covid-19) and the impact on people with protected characteristics',* which may have gathered useful evidence in relation to any

disproportionate impact on any individual groups of children and young people in the YJS. As part of this inquiry, the Women and Equalities Committee launched three sub-inquiries. We draw the Inquiry's attention to written evidence submitted by Just For Kids Law to one of the sub-inquiries entitled *'Unequal impact? Coronavirus and BAME people'*, which had specific regard to young people's experiences of the criminal justice system.

144. Whilst the Howard League is aware of trends in the YJS, including in relation to the demographic of children and young people in the YJS and the types and/or patterns of offending (in an already crumbling system), we have not analysed which trends were already in motion before the pandemic and which trends (if any) have emerged from the pandemic. Similarly, we have not analysed whether any trends have continued to exist as a result of the pandemic (or whether any such trends would have continued to exist notwithstanding the pandemic).

Recommendations by the Howard League and Lessons Learned

145. Most of the recommendations that the Howard League made at the onset of the pandemic relating to reducing prison numbers to limit the spread of coronavirus in prisons were not implemented. Our recommendations included significantly reducing the use of remand and recall, reducing the imposition of short sentences, and increasing the use of executive release and making use of compassionate release in the case of those people in prison who were elderly, sick and vulnerable. We particularly pressed for children to be considered for release as a vulnerable group.

146. When the UK Government did finally respond to our calls for an early release scheme, the End of Custody Temporary Release ("**ECTR**") scheme fell far short of the 4,000 releases originally planned by the government – with only 33 releases by the end of April 2020. Despite being eligible, no children in custody were released under the scheme as at 2 June 2020. In addition, pre-pandemic plans to extend the use of home detention curfew were also shelved in May 2020 (**Exhibit HL/72 [INQ000613163]**). Use of compassionate release was also limited. By the time the ECTR scheme was paused in August 2020, only 262 prisoners had been released under the scheme. A further 53 had been released on compassionate grounds (**Exhibit HL/73 [INQ000613164]**) under the scheme. There is no breakdown available to show how many of those released were children and young people; however, we can see from earlier data that the cohort

of people aged 29 or below represented approximately 30 of those released under COVID-19 temporary release schemes between 16 March 2020 to 10 July 2020.

147. There was rigidity in the system which, even during an unprecedented health crisis, prevented flexibility. For example, in April 2020, the Howard League represented a 15-year-old boy who was eligible for early release on home detention curfew if 'exceptional circumstances' could be shown. All professionals were supporting his release, and children's social services had secured suitable accommodation for him. However, the pandemic was held not to constitute 'exceptional circumstances' because it was not unique to him and he remained in custody for a further three months. In the event of a future pandemic, Government should be encouraged to be much more flexible and creative in its response to enable it to use existing mechanisms, as well as new ones, to mitigate the risk of harm to those in custody.

148. The Howard League's view is, however, that few lessons have been learned from the pandemic. The Howard League's main recommendations around reducing the prison population – including by significantly reducing the use of remand and recall and reducing the imposition of short sentences – remain features of our campaigning in the post-pandemic context and would be highly relevant in the event of a future pandemic. For as long as prisons remain in their existing state of permanent crisis, those inside them will remain highly vulnerable to the shocks of another pandemic or civil emergency. Longer-term proposals for addressing the prisons crisis, which focus in particular on both relieving population pressures and addressing the primary drivers of them, can be found in recent policy interventions by the Howard League (**Exhibit HL/74 [INQ000613165]**) and five of the country's most senior former judges in their paper 'Sentence Inflation: A judicial critique' (**Exhibit HL/75 [INQ000613166]**).

149. When it comes to the adult prison estate, the legacy of the pandemic is arguably as serious, if not more serious, than that experienced by any other public service – including schools and hospitals. This is because, five years on, prison regimes have still not recovered from the impact of the decisions to limit the release of prisoners and instead contain the virus through lockdown measures. Far too many prisoners spend most of their day locked up in their cells and purposeful activity is limited even in many Category C training prisons, which are designed to offer positive regimes. In the words of the Chief Inspector of Prisons in his last annual report, prisons are being used to *"warehouse people in squalor"* (**Exhibit HL/76 [INQ000613167]**). Young people held within the adult estate have undoubtedly been impacted by these limited prison regimes and extreme overcrowding pressures.

150. While prison numbers did fall as the courts ceased operation, there was very little headroom for when the courts returned, and the case backlog began to be addressed. The Howard League attended a meeting on 14 June 2021 (referred to in paragraph 102) where this was acknowledged by HMPPS officials as early as June 2021. While there are other reasons for the capacity crisis in adult prisons that has led the current government to introduce its own early release scheme, the acute shortages in capacity experienced now would likely have been averted or delayed if the opportunity to reduce prison numbers further had been taken during the early stages of the pandemic.

151. Children and young people in the children and young people secure estate have also been adversely affected by overcrowding in the adult estate, a notable consequence of which was the change in the transitions policy from November 2022 to October 2024 to raise temporarily the age that children would transfer to the adult secure estate from 18 to 19 years old. The policy resulted in a 253% increase in the number of over 18 year olds in the children and young people secure estate, which caused increased pressure on an already-struggling youth system (**Exhibit HL/77 [INQ000613168]**). The closure of Cookham Wood as a YOI in May 2024 also negatively impacted children in other YOIs, which struggled to cope with an increased intake of children and young people. Although the closure of Cookham Wood was linked to the failure to improve the situation at the site following an Urgent Notification from HMIP, the decision appears to have been influenced by overcrowding in the adult estate (it being noted by the MoJ at the time of closure that the establishment would quickly be re-rolled as an adult male prison "in a bid to boost to prison capacity") (**Exhibit HL/78 [INQ000613169]**).

152. Looking particularly at the children and young people's secure estate during the Specified Period, there was a notable lack of policy-making focusing specifically on the needs of children. Instead, and as noted in paragraph 138, there was wide variation in how each type of establishment responded to the pandemic, with life in YOIs being particularly badly affected. This, in part, reflected the absence of a joined-up approach to addressing the needs of children in custody from a governmental perspective. It is our view that there was a critical need to bring together those from the MoJ, the Department of Education and the Department for Health and Social Care with responsibilities for children in custody to consider the needs of those children in the round. Going forward, we support the position that ministerial and civil service responsibility for children in custody should be moved from the MoJ to the Department for Education and that, operationally, the YCS should be moved out of HMPPS and integrated into the Department for Education (as set out in the 'End Child Imprisonment'

Campaign of which the Howard League is a signatory) (**Exhibit HL/79 [INQ000613170]**).

153. In terms of more operational issues, in particular around infection control and the impact of 'bubbles' for mixing, the Howard League draws the Inquiry's attention to an article written by Dr Charlotte Lennox dated 19 March 2024 entitled *'Locked up like adults – COVID-19 experiences for children in custodial settings'* (**Exhibit HL/80 [INQ000613171]**), in which Dr Lennox makes a number of recommendations to support children and young people in the YJS in the event of another pandemic or civil emergency, with which we agree.

154. The Howard League considers that there were some initiatives and changes introduced during the pandemic to enable contact with family and friends which, if they had been maintained, could have had a positive impact on children and young people in custody and, in particular, those held in YOIs. Examples can be found in a report published by the Children's Commissioner in March 2023 entitled *'Family contact in youth custody'* (**Exhibit HL/81 [INQ000613172]**), namely:

a. The roll out of virtual contact technology, such as video calls, across the secure estate (known as 'purple visits') (see section 4.1 of Exhibit HL/81 [INQ000613172]); and

b. The roll out of universal in-cell telephones and a temporary reduction in the cost of phone calls made from secure settings/free phone credit (see section 4.2 of **Exhibit HL/81 [INQ000613172]**).

155. However, this report also found that many of the advances made during the pandemic have since been rescinded (see section 4 of **Exhibit HL/81 [INQ000613172]**). The benefit to children and young people of having extra phone credit (and not having to choose between 'canteen' and phoning home) cannot be understated, and consideration should be given to allowing children and young people free calls to their families as a general policy, not restricted to exceptional situations such as a pandemic.

156. The children and young people secure estate has not faced the same capacity pressures, or overcrowding, and children's prisons are better resourced than adult prisons. Nevertheless, and as described in paragraph 13, the youth custodial estate is also in a state of what seems to be permanent crisis. HMIP's Team Leader for Children and Young People has described *"a decade of missed opportunities and decline"*, with a "*muddled, fragmented approach*" to custody that *"is failing children and increasing the*

likelihood that they will go on to become adult offenders" **(Exhibit HL/82 [INQ000613173])**. As noted in paragraphs 39 to 42, children and young people in YOIs spend significant amounts of time behind cell doors and without access to adequate education or support **(Exhibit HL/09 [INQ000613086]**). Far from being rehabilitative and supportive environments, increasing numbers of children in YOIs and the STC report feeling unsafe **(Exhibit HL/83 [INQ000613174])**. The latest safety in custody statistics released in April 2025 by the MoJ show high levels of assaults and self-harm (**Exhibit HL/84 [INQ000613175]**). Instead of addressing issues of violence through investment in increased staff levels, improved staff training and retention, effective behaviour management strategies and evidence-based programmes to improve safety (as endorsed by the Youth Justice Board), on 24 April 2025, the MoJ instead announced the proposed introduction of PAVA spray (a synthetic pepper spray) into YOIs in England.

157. Without addressing the strategic and systemic failures that blight the youth custodial system, children and young people caught up in this system will remain exposed in the event of a future pandemic. In particular, the Howard League is pressing for the MoJ to close YOIs and the STC, and ensure that children are accommodated in more appropriate settings – such as SCHs – where they can be given the care and support they need.

STATEMENT OF TRUTH

158. I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed: **Personal Data**

Dated: 11/07/2025