

# United Kingdom: Changing the way the police treat teens in custody

## Summary

17-year-olds occupy a strange place in English law. They can't drink or get married without their parent's consent, but the moment they enter police custody, they are treated like an adult. This is the story of one London teenager who looked to challenge this legal anomaly in the High Court, and the campaign he helped set in motion.

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## Background

Hughes Cousins-Chang had never been in trouble with the law before he was arrested on 19 April 2012.

The 17-year-old was apprehended on a bus in south London and taken into police custody, on suspicion of robbery of a mobile phone. He remained there for the next 11-and-a-half hours and was strip searched.

His mother was not told of her son's incarceration until four hours after he was arrested, despite Mr Cousins-Chang's repeated requests to speak to her. He was eventually released without charge, but his family was incensed by the boy's treatment.

Speaking some time after the incident, his mother Carrlean Chang said: "I was outraged that a 17-year-old was being treated as an adult. I felt helpless. My son was a boy. When he finally came out at 4am he looked so deflated."

[The Police and Criminal Evidence Act](#) and "Code of Practice" allowed the police to treat a 17-year-old as an adult. Campaigners and lawyers had long argued this was an anomaly, as anyone under the age of 18 is regarded as a child in all other areas of the criminal justice system.

Mr Cousins-Chang was not entitled to the support available to a person aged 16 and under, who should be given the assistance of an "appropriate adult" (a parent or guardian) when taken into custody, or have their parents contacted.

The UN Convention on the Rights of the Child, to which the UK is a signatory, states that all people under the age of 18 should be considered children.

Home Office statistics show that 75,000 17-year-olds are detained in police custody every year.

In 2013, this number included Joe Lawton and Edward Thornber. The two boys from Greater Manchester took their own lives after being detained by police. Mr Lawton committed suicide two days after being arrested for drink-driving. Mr Thornber took his own life after receiving a court summons after being caught by police smoking marijuana.

Under the rules at the time, the parents of Mr Lawton and Mr Thornber were not informed of their child's incarceration.

[Speaking to reporters](#) shortly after the incident, Mr Lawton's father Nick said that if he and his wife had been told that their son had been arrested, they would have been able to help him.

"Very few people are aware of this anomaly in the law - how can you be an adult one moment and a child the next?" he asked. "That simply isn't right."

The cases of Mr Lawton and Mr Thornber captured the imagination of the British public, and an online petition calling for 17-year-olds to be treated as children when held in police custody received over 50,000 signatures. This move served to increase media coverage of Cousins-Chang's case and pressured the government into a response.

### **Bringing the case to court**

Chris Chang, the uncle of Hughes Cousins-Chang, brought a case to the High Court against the Home Secretary and the Metropolitan Police Commissioner, challenging the position of treating 17-year-olds in police custody as adults, rather than children.

Caoilfhionn Gallagher, of Doughty Street Chambers, supported by the organisation Just for Kids Law, acted for Hughes Cousins-Chang in the case.

[Just for Kids Law](#) argued that the "legal anomaly" which allowed 17-year-olds to be treated as adults when in police custody meant that people of this age are "routinely denied access to an independent adult or their parents to guide them through an often bewildering and traumatic legal process".

Joanne Cecil, instructed by Coram Children's Legal Centre, and Felicity Williams and Laura Janes, both instructed by the Howard League for Penal Reform, intervened in the case.

The case raised the question of whether the government, and more specifically the Home Secretary Theresa May, could refuse to revise the Code of Practice.

### **Outcome**

The High Court ruled that the Code of Practice was unlawful and that the Home Secretary had violated Article 8 of the European Convention on Human Rights ('right to respect for private and family life') by failing to revise the Code so as to distinguish between the

treatment of an adult detainee and a detainee under the age of 18. This meant that 17-year-olds detained by police would now be treated as children, rather than adults.

Speaking to the [London Evening Standard](#) after the ruling in April 2013, Mr Cousins-Chang said the result was “beyond his imagination”. Chris Chang, told the same newspaper:

“This case shows you can change what happens to you, and you don’t have to accept something as being the norm.”

At the same time, the Home Office released a statement which said the government accepts the court's judgement and "will consider the next steps we should take to implement the changes".

But campaigners allege that despite reassurances from the Home Secretary, efforts to bring the treatment of 17-year-olds detained in police custody in line with that of under-16s have been limited. While 17-year-olds now have the right to have a parent or appropriate adult with them while they are questioned by police, in other areas they are treated in the same way as adults.

Eight months after the ruling at the High Court, 17-year-old Kesia Leatherbarrow, below, took her own life after being held in a police cell for three days.

Kesia, who had been taken into custody while in possession of a small amount of marijuana, suffered from mental health issues and depression for much of her short life. She was found hanged in a friend’s garden the day she was supposed to face trial.

Her mother Martina Brincat Baines now believes that if her daughter had been taken into local authority care as is offered to anyone under the age of 17, was kept in a police cell overnight, she would still be alive today.

[A Change.org petition](#), organised by Ms Baines, calling for the Criminal Justice and Courts bill to be amended during third reading in the Lords next week so as to make sure 17 year-olds are treated as children while in custody has now received more than 25,000 signatures.

Writing on the petition, Ms Baines said: “The arrest will have caused [Kesia] terrible distress, but because she was treated as an adult in custody she had no legal right to be transferred to local authority care overnight.

"This is where specialist staff could have looked after her. She was released with no one to meet her, and soon after she was found dead.”

Just for Kids Law is launching a judicial review against the Home Office as part of an attempt to ensure that 17-year-olds held in police custody have all the rights enjoyed by under-16s who are detained.

The firm’s director Shauneen Lambe has denounced the Home Office for failing to extend all protections to 17 year-olds.

She said: “It is tragic that another 17-year-old has died after being held at a police station.

“After the [last legal challenge], the Home Secretary committed to protecting 17-year-olds held at police stations, but this turned out just to be lip service.

“We have spent many months campaigning for government to extend all [juvenile] protections to arrested 17-year-olds, but it continues to stall – including by rejecting an amendment to the Criminal Justice & Courts Bill which, by changing just one word, would solve the problem.

“While they refuse to act, we have no alternative but to ask the courts to tell the government again, what it has told them before; 17-year-olds at the police station are children not adults.”

A Home Office spokesperson told the [Guardian](#) it was committed to “ensuring that young people are protected and treated appropriately while in police custody” and that the department will look to “amend this outstanding legislation, including provisions that relate to detention overnight in police custody, as soon as possible.”

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### Further information

- Read CRIN’s case summary of [The Queen on the Application of HC \(a child, by his litigation friend CC\) v. The Secretary of State for the Home Department and Another](#) case in full.
- Find out more about [strategic litigation](#).
- See CRIN's country page on the [United Kingdom](#).

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