



Child-Friendly Justice in Mental Health Settings in England & Wales

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- ***Access to Justice: Children Detained under the Mental Health Act 1983***

- ***To examine the provision of information to young people detained under the Mental Health Act 1983***



Detention rates in children under 18 years

Year ending 31 March 2024:

- 963 detentions reported (mainly s2/s3)
- 689 16 and 17 years
- 274 15 years and under
- Large number detained at least 50km away from their home '*children detained in institutions far from their families were found to experience intensified feelings of isolation and unhappiness*' (Children's Voices: A review of the evidence on the subjective wellbeing of children in detention in England 2017)



Mental Health Act 1983

CHAPTER 20

ARRANGEMENT OF SECTIONS

PART I

APPLICATION OF ACT

Section

1. Application of Act: "mental disorder".

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Procedure for hospital admission

2. Admission for assessment.
3. Admission for treatment.
4. Admission for assessment in cases of emergency.
5. Application in respect of patient already in hospital.
6. Effect of application for admission.

Guardianship

7. Application for guardianship.
8. Effect of guardianship application, etc.
9. Regulations as to guardianship.
10. Transfer of guardianship in case of death, incapacity, etc., of guardian.

General provisions as to applications and recommendations

11. General provisions as to applications.
12. General provisions as to medical recommendations.
13. Duty of approved social workers to make applications for admission or guardianship.
14. Social reports.
15. Rectification of applications and recommendations.

A

UN Convention on the Rights of the Child

Article 12 : Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.



UN Convention on the Rights of the Child

Article 37 : Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.



s.132 Mental Health Act 1983



Mental Health Act 1983

Hospital managers shall take such steps as are practicable to ensure the patient understands-



What rights of applying to a tribunal are available to them



Including giving requisite information both orally & in writing

Guidelines on Child-Friendly Justice



- **Children should be thoroughly informed on their rights to have recourse to judicial proceedings.**
- **Guideline 2: Children should receive information in a manner adapted to their age and maturity, in a language that they can understand, in a gender and culture sensitive form.**
- **Guideline 4: Child-friendly materials containing relevant legal information should be made available and widely distributed, and special information services such as specialized websites and helplines established.**

Methodology

- Mixed methods
- **Freedom of Information Requests** to find out:
 - *what* information is provided to detained children; and
 - *how* that information is presented
- **Diamond 16** – to assess detained children’s knowledge about the information provided to them



Freedom of Information Requests

- Freedom of Information Act 2000
- Why do FOI requests?
- Sent by post/email/direct website request to 30 NHS Mental Health Trusts in 2019 and repeated in 2024. Sample selected to provide a geographical spread of NHS Trusts.
- Content analysis of information provided to see *what* is provided.
- Content analysis to see if information is provided in an *appropriate* way to children – used Flesch-Kincaid Formula to consider readability and whether child-friendly.



FOI Request

“Please provide us with copies of any brochures, leaflets or information packs that you provide to detained children in compliance with section 132. If patients are directed to online or digital materials to provide them with the relevant patient information in compliance with section 132, please provide the links so that we can access the information in the same way that the patient would. We make this request in accordance with the Freedom of Information Act 2000.”

FINDINGS

- Inaccurate & misleading information
- Incomplete information
- Lack of age-appropriate materials
- Lack of specialised websites



If you want to apply to the tribunal

First-Tier Tribunal (Mental Health)
PO BOX 8793
5th Floor
Leicester
LE1 8BN
Tel: 0300 123 2201



you can write to:

You must write your letter within 14 days of being on a section 2.

You can ask a solicitor to write to the tribunal for you and help you.

The staff can give you the names of solicitors who can help you.

S132 RIGHTS CHECKLIST MHA 1983

This checklist details all of your rights whilst you are detained under this section of the MHA. You can keep a copy of this if you would like to. A record of any attempts to give you your rights under s132 will be recorded on your care record

SECTION 2 - Admission for Assessment

You are being held under Section 2 of the Mental Health Act 1983 Amended 2007, known as Admission for Assessment

You have been detained for a period of up to 28 days initially, on the advice of 2 doctors, so that the doctors can find out what is wrong and how they can help you.

If you want to leave before the end of the 28 days, and you cannot get the agreement of your doctor, you can apply to the Hospital Managers or to the Tribunal Service to ask if they will consider your discharge. You have 14 days from the date that your section was enforced to apply to the Tribunal Service. If your doctor believes you don't have the capacity to do this, s/he will put in a request for a referral for you.

The Hospital Managers – sometimes referred to as Lay Managers - are a specifically selected panel of three or more people who are not employees of the hospital. These Managers have received suitable training to understand the Mental Health Act 1983 and how risk is assessed. They have the power to authorise your continued detention or discharge from detention as well as refer to the Tribunal Service and make recommendations on your behalf.

Your Nearest Relative also has the right to order your discharge, but must give your doctor 72 hours' notice in writing. If the doctor disagrees with this request, s/he can bar it.

You can only be kept in hospital longer than 28 days if your doctor feels that it would be in your best interests and he/she makes new arrangements. If your doctor is thinking of doing this, then he/she will talk to you about it before the end of the 28 days.

The doctor will talk to you about any treatment that is felt necessary and in most cases you will have to accept your doctor's advice.

If you try to leave before a doctor says you can, you can be stopped by the staff.
If you do leave without permission, you can be brought back to the hospital.



headspace toolkit

For Young People who are
Inpatients of Mental Health Services

*Your right to know
and your right
to be heard'*

**DOWNLOAD
YOUR
TOOLKIT** HERE

TOOLKIT

CONTACT

LINKS

MHC Website

DOWNLOADS

*What is
the Toolkit?*

*Why express
yourself?*

Your Rights

*Why am I
in hospital?*

*What should
the Unit
be like?*

*Can I make
my own
decisions?*

*The Mental
Health Act
(the legal bit)*

About the Mental Health Act & being detained under it (the legal bit)

The Mental Health Act 2001

The Mental Health Act is the law that relates to mental health care and treatment in Ireland. It applies both to adults (aged 18 and over) and young people.

There are some specific bits of the Act that only apply to young people although these bits are mostly relevant to you only if you have been diagnosed with a mental disorder. It sets down what must and mustn't happen if someone is diagnosed as having a mental disorder.

There is also a Code of Practice that sets out what should happen if a young person is admitted to hospital. The Code of Practice is not something that doctors and your team must follow, but they must have a very good reason not to.

The Act is set out in sections that deal with specific things, and these sections are numbered. So, for example, Section 3 sets out what is meant by a mental disorder.

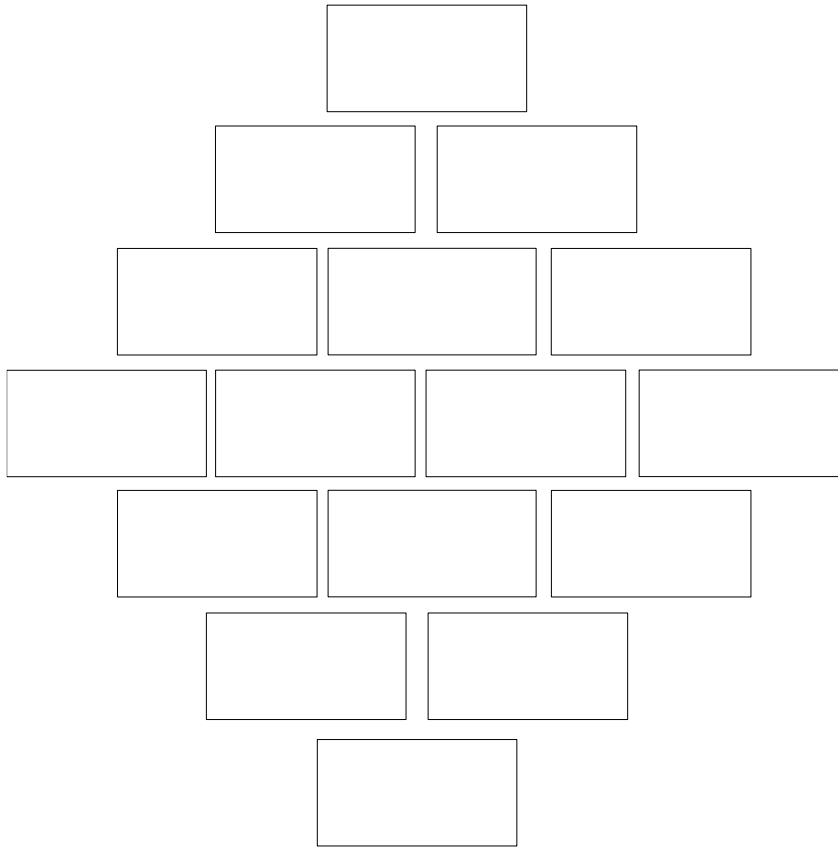


PHASE II

Engaging with detained children

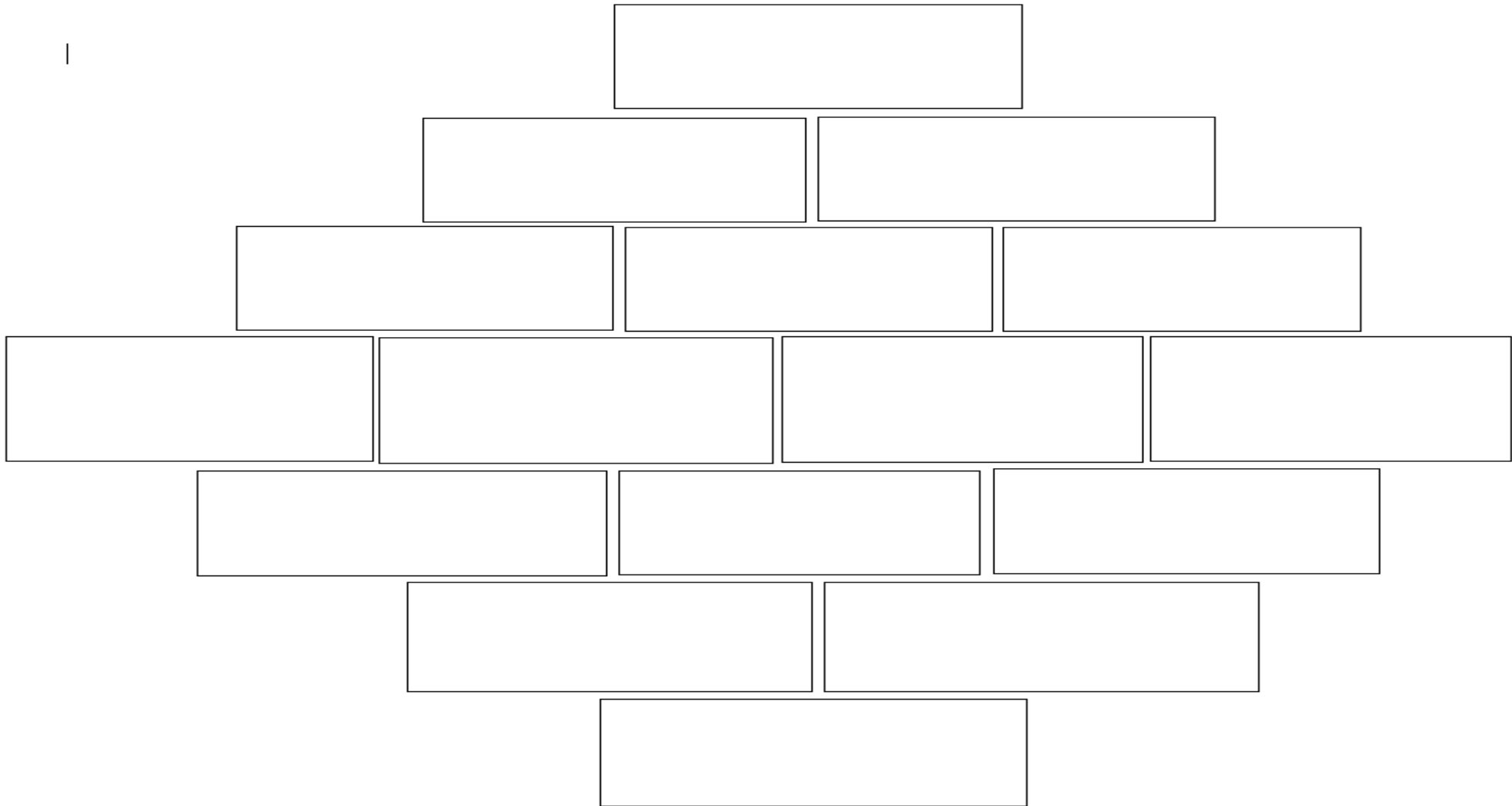


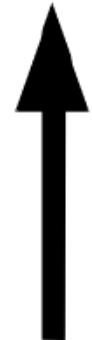
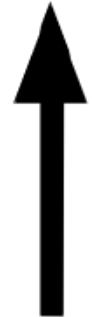
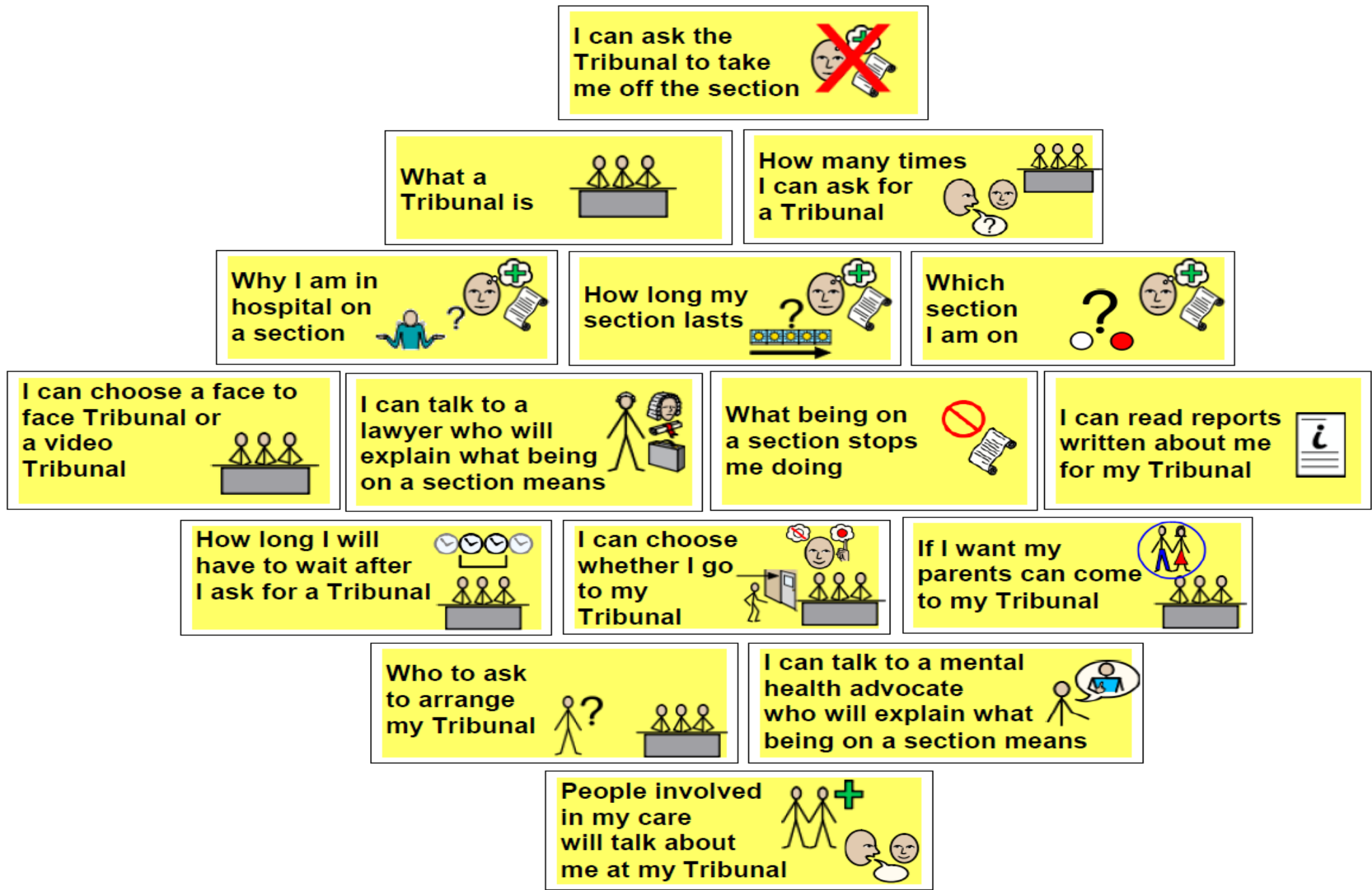
What is a Diamond 16 and why use it?



- Visual data collection tool.
- Participants use cards with words, statements and/or pictures to rank them according to the descriptor being tested – here, knowledge of information.
- Simple and quick data collection tool.
- Can provide qualitative and quantitative data.
- Participants play an active role in the research.
- Analysis.

Diamond 16 and detained children





Like to hear more about the study & our findings?



Fuse: the Centre for Translational Research in Public Health -
NIHR School for Public Health Research member

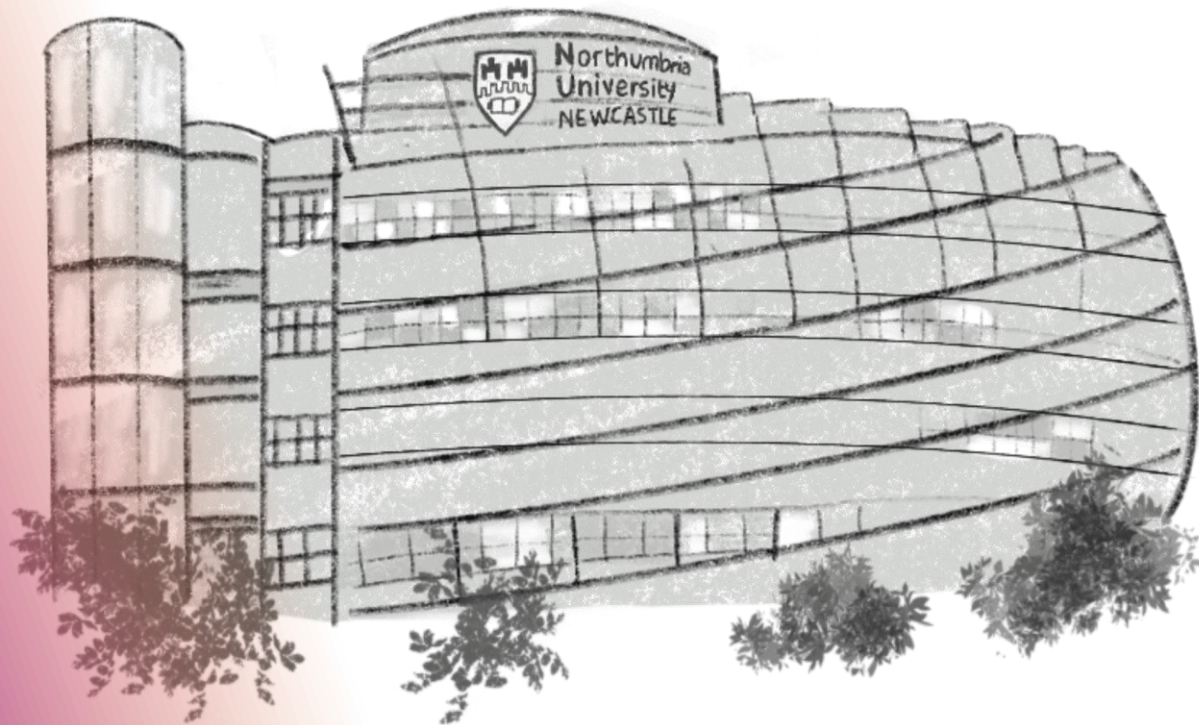


Fuse Early Life and Adolescence cluster lunchtime seminar:

Children detained under the Mental Health Act 1983: the right to receive child-friendly information as a core feature of their participation rights

Wednesday 4th December 2024, 12.30 – 1.30pm Online (via Zoom)

• [REGISTER NOW](#)



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