



THE STANDING COMMITTEE FOR YOUTH JUSTICE

Introduction

The Standing Committee for Youth Justice (SCYJ) www.scyj.org.uk is a membership body which provides a forum for organisations, primarily in the non-statutory sector, working to promote the welfare of children who become engaged in the youth justice system; and advocates a child focused youth justice system that promotes the integration of such children into society and thus serves the best interests of both the children and their communities.

Members of SCYJ are: *Action for Children, 4Children, Association of YOT Managers, Barnardo's, Catch 22, The Children's Society, Centre for Mental Health, Children's Rights Alliance for England, Council for Disabled Children, Criminal Justice Alliance, Howard League for Penal Reform, Just for Kids Law, JUSTICE, MAC UK, Nacro, National association for Youth Justice, NCB, NSPCC, National Youth Agency (NYA), TACT, The Prince's Trust, Prison Reform Trust, Secure Accommodation Network, SOVA, User Voice, Voice*

Summary

SCYJ welcomes the Justice Committee's decision to hold a brief inquiry into the future of the Youth Justice Board (YJB) and youth offending teams (YOTs) and is pleased to be able to respond. Our key findings and recommendations to the committee are:

- The sole sponsorship of the YJB by the Ministry of Justice should be reviewed to ensure there are formal cross-departmental arrangements or protocols in place so that those departments with responsibility for child health, education and welfare are fully involved in the development of policies and services in youth justice.

- The Government must comply with the United Nations Convention on the Rights of the Child (UNCRC) and other international conventions¹ that require a distinct and separate system for children in trouble with the law.
- Reductions in funding are impacting on the capacity of YOTs to fulfill their statutory multi-agency remit. There is also a risk that there will be significant local variation in resourcing and delivery. However, the reduction in the provision of YOT-led prevention programmes is of less concern.
- To achieve more substantial reductions in the number of children entering the youth justice system and being sentenced to custody, SCYJ advocates both a higher custody threshold for children, and raising the age of criminal responsibility. In addition, diversion from court should be expanded significantly for all children under-18 years old.

What impact, if any, have changes to national governance arrangements for youth justice had on the Youth Justice Board and youth offending teams?

1. SCYJ is concerned with two issues. Firstly, the change from dual departmental responsibility for youth justice (under the then Department for Children, Schools and Families and Ministry of Justice) to single departmental sponsorship under the Ministry of Justice; and secondly the proposed abolition of the YJB as an arm's length body and transfer of its functions to the Ministry of Justice.
2. In 2010 the cross-departmental responsibility for the YJB was ended and responsibility now lies solely with the Ministry of Justice. At that time SCYJ expressed its concern; it is well evidenced that children in the criminal justice system have a multiplicity of problems and needs² and this was recognised in the 1990's by the establishment of multi-agency youth offending teams (YOTs). We remain concerned that this multiplicity is not reflected in the governance of the youth justice system, and that there are

¹ United Nations Convention on the Rights of the Child. Article 40 (3) and The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") Rule 2.3.

² See: Jacobson, J et al (2010), Punishing Disadvantage: a profile of children in custody, London: Prison Reform Trust.

no formal cross-departmental arrangements or protocols to ensure that those departments with responsibility for child health, education and welfare are fully involved in the development of policies and services in youth justice.

3. SCYJ believes that sole sponsorship by the Ministry of Justice will ultimately lead to an approach that is dominated by a public protection framework. We are particularly concerned that the Department of Education's focus on youth justice is being diminished with less resource being allocated. There is a real risk that issues which are a core concern for the Department, for example, safeguarding, welfare and health support, looked after children and children's rights, are not a priority for youth justice. We would like to see the decision to hold a single department responsible for youth justice reviewed.
4. The government has announced that the YJB will be abolished and it has been included in the Public Bodies Bill currently being considered by Parliament. SCYJ firmly believes the Government should comply with the United Nations Convention on the Rights of the Child (UNCRC) and other international conventions³ that require a distinct and separate system for children in trouble with the law.
5. We are concerned that in recent years, the development of governance, policy and practice in the youth justice system appears to have moved further away from this distinctiveness and many interventions with children in trouble are based on adult models, particularly for those in custody. This would appear to be in direct contradiction to developments in child welfare policy, which recognises that the developmental needs of children, and the capacity of adolescents to comprehend and make informed choices, is different to that of adults.
6. SCYJ therefore believes that there should be a discrete, child-focused body responsible for all aspects of the youth justice system. In particular, it is crucial that commissioning within the juvenile secure estate is not integrated with that for the adult estate; the Government should be working towards a completely separate children and young people's secure estate that is able to meet all the needs of vulnerable and

³ United Nations Convention on the Rights of the Child. Article 40 (3) and The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") Article 2.3.

damaged children, and address persistent health and social inequalities in children as well as protect the public.

7. SCYJ is particularly concerned that if youth justice were to be moved within the Ministry of Justice it would become undermined by adult structures under the National Offender Management Service (NOMS). Even if adult and youth justice functions were led from separate units within the Ministry of Justice, we believe that the strategic priorities of NOMS would dominate and quickly overwhelm youth justice. We fear it would not be long before certain functions were absorbed into the NOMS structure.
8. Given this, should the Youth Justice Board be abolished, it is critical that two of its current responsibilities - commissioning a distinct secure estate, and placing children in custody - should be fulfilled by Ministry of Justice staff working within the youth justice unit or directorate, rather than within the National Offender Management Service (NOMS). The commissioning and placing of children in the secure estate should remain the responsibility of central government but children's needs are distinct and are not well met by current YOI provision. The children's secure estate team within the Ministry of Justice must be separate from that dealing with adult custody, so they have the independence needed to make custody truly appropriate for the needs of vulnerable children.
9. Finally, SCYJ does not think that the current make up of the YJB reflects the wide range of stakeholders who have expertise with children and criminal justice. Whether the YJB is retained or its functions are transferred to the Ministry of Justice, we believe an advisory group that includes the statutory and voluntary sectors, academics, those who have evidence of effective interventions and any agencies and organisations which give a voice to service users should be put in place.

What impact, if any, have changes to funding arrangements had on youth offending teams?

1. There are 158 multi-agency youth offending teams (YOTs) in England and Wales. It is important to note that they were conceived as multi-disciplinary and multi-agency teams with statutory partners including local authorities, the police, probation, and health services. In addition they work with a wide range of voluntary and community sector organisations.
2. YOTs are funded through a combination of central government funding provided by the YJB and local partnership contributions. The local

agencies that make up the YOT have provided two thirds of the funding with the remainder provided by central government. However, it is important to note that there has not been an equal contribution of resources amongst the statutory partners.

3. More than half of local partnership funding for YOTs is provided by local authority children's services. As local authorities manage substantially reduced budgets it is inevitable that local funding to YOTs will be reduced. YOTs have been able to bid for funding from the new Early Intervention Grant for local authorities. But funding for the grant has been reduced by 11%⁴.
4. Health has provided the smallest contribution - around 12% of funding from local partners.⁵ SCYJ is concerned that as the NHS goes through a period of major structural reform the future contribution of health to youth justice will need to be carefully monitored. There is a real risk that there will be fragmentation in the delivery of, and access to, health services for children in the youth justice system. The contribution of health services, particularly mental health and substance misuse services, to YOTs could be substantially diminished.
5. In addition to reductions to local resourcing for YOTs, the funding from central government to YOTs provided by the YJB has also been reduced. According to the YJB, its allocation has been cut by 20%.
6. It is difficult to get a clear picture of the consequences of the overall reduction in funding to YOTs as there have not yet been any independent assessments of the impact. Nevertheless, there appear to be three significant consequences that the SCYJ would like to highlight.
7. Firstly, from the information that SCYJ has received through its member organisations, it would appear that the overall reductions in funding have led to a cut in the provision of YOT-led prevention and early intervention work. In recent years, through the development of programmes such as the Summer Splash Schemes, Safer Schools Partnerships and Youth Inclusion Programmes, YOTs have substantially expanded their work on youth crime prevention. As this was not part of core YOT business to support children subject to pre-court or court ordered sanctions, it is perhaps not surprising that it is now being cut back.

⁴ <http://www.cypnow.co.uk/news/1046379/?DCMP=EMC-DailyBulletin>

⁵ See: Solomon and Garside (2008) *Ten years of Labour's youth justice reforms: an independent audit*, London: CCJS.

8. The SCYJ would not necessarily regard this as a retrograde step as it is our view that youth justice agencies are not best placed to provide prevention work. Given the multiplicity of needs of children in the youth justice system we believe that other agencies - health, education and social services - are better placed to intervene early to prevent youth crime. There is also substantial research evidence that early contact with the youth justice system can have negative consequences for children, stigmatizing and labeling them as criminals.⁶ There is, however, a risk that community based prevention programmes are being cut back and, overall, the availability of early support from social care agencies will be much reduced
9. Secondly, SCYJ is concerned that some agencies are beginning to withdraw resources to YOTs. In particular we are concerned YOTs are struggling to retain staff or resources from drug and alcohol services. This will inevitably further undermine the multi-agency YOT model and the support that should be provided to children in the youth justice system. SCYJ believes that in practice the realisation of this model has been challenging. Ensuring the effective contribution of health services, reflected in the fact noted above that health provides the smallest proportion of local funding, has been particularly difficult. However, now more than ever before, we believe that the delivery of the multi-agency model is at real risk. We fear this will have detrimental consequences for children in the youth justice system.
10. Finally SCYJ is concerned that there will be a substantial variation in local resourcing for YOTs. This could lead to a postcode lottery in the provision of youth justice with some local authorities providing better resourced YOTs than others. We are already aware that a number of YOT managers are being given additional responsibilities and that their statutory functions are being downgraded. This will need to be carefully monitored.
11. We would also draw the Committee's attention to last December's National Audit Office report on the youth justice system which highlighted that, despite the £500m spent each year by the YJB, the Board is not fully aware of which types of interventions are likely to be effective in both preventing offending and reducing the risk of further offending.⁷ Consequently practitioners within YOTs are operating within a vacuum

⁶ See, for example, The Edinburgh Study of Youth Transitions and Crime, <http://www.law.ed.ac.uk/cls/esytc/>

⁷ See: http://www.nao.org.uk/publications/press_notice_home/1011/1011663.aspx

when it comes to planning interventions, not knowing what impact their involvement is likely to have. This is particularly concerning at present where limited resources need to be used effectively.

How can reductions in the number of young people entering the criminal justice system and being sentenced to custody be maintained most effectively within existing levels of funding?

12. There have been significant reductions in the number of first-time entrants to the youth justice system and in the number of children being sentenced to custody in recent years. In 2007/8, the number of children entering the system for the first time was 100,201 – two years later, this had fallen 39% to 61,422. Likewise, the number sentenced to custody over the same period fell from 6,853 to 5,130 respectively, a drop of 25%.⁸ SCYJ believes it is vital that these reductions are sustained and would like to see more radical steps taken to achieve more substantial reductions.

13. SCYJ advocates both a higher custody threshold for children, and raising the age of criminal responsibility.. These changes would not only help achieve further reductions in the number of children entering the youth justice system and being sentenced to custody, but also bring the UK into line with its international obligations, including the United Nations Convention on the Rights of the Child. The UNCRC General Comment 10 states that 12 is an absolute minimum acceptable age of criminal responsibility and that it should be increased to a higher level.

14. We refer the committee to our report [*Raising the custody threshold*](#), which sets out our position.⁹ The establishment of a higher custody threshold in law, which would need to be passed every time a child is sentenced to custody, could be seen as defining the UNCRC concept of last resort in law. It is important to note that at least a third of the children who are imprisoned at any one time are there for non-violent offences, suggesting there is some scope for the numbers sentenced to drop further.¹⁰ We believe that raising the custody threshold would guarantee a reduction in

⁸ All data from Youth Justice Board Annual Workload Data.

⁹ http://www.scyj.org.uk/files/Raising_the_custody_threshold_FullDocAug10_FINAL.pdf

¹⁰ Youth Justice Board (2011) *Youth Justice Statistics 2009/10* MoJ: London

the numbers sentenced to custody by reserving imprisonment for the most serious or violent offences.

- 15.** SCYJ also believes that diversion from the youth justice system, both at the stage of pre court disposals and at the stage of court proceedings, should be expanded significantly for all children under-18 years. We would propose establishing a diversionary set of principles, based on the United Nations Convention on the Rights of the Child and related international guidance and rules. These would give prominence to principles of avoiding criminalisation, informality, voluntarism and intervening to the minimum level necessary. The Children Act principle of “no order unless better than no order” should apply when public protection considerations allow.
- 16.** In particular, a published set of principles or guidelines would ensure consistency across geographical regions. The current system allows for different approaches as to which children are diverted in different areas. For example, some areas will only consider diverting a child if they have admitted their offence in a police interview. Others have greater flexibility and allow children to be diverted, where appropriate, providing they later admit the offence. Guidelines would also allow practitioners a greater understanding of the system and enable them to better advise and support children.
- 17.** In addition to guidelines, SCYJ would support the development of a national diversion scheme of local multi-agency teams to assess, make recommendations and coordinate restorative or other interventions or support services. It is hoped that funding for the 37 youth justice liaison and diversion pathfinder sites unveiled by the Department of Health earlier this year is the precursor to a national programme.