



## **The Association of Youth Offending Team Managers (AYM) response to the Labour Party Policy Review of the Criminal Justice System.**

### **About the AYM**

The AYM is a professional association representing the majority of youth offending teams (YOT) and their managers in England.

Section 39 (1) of the Crime and Disorder Act 1998 requires the co-operation of the named statutory partners to form a YOT. Section 38 (1, 2) identifies the statutory partners and places upon them a duty to co-operate in order to secure youth justice services appropriate to their area. These statutory partners are the local authority, police, the probation service, and health. To support the YOT, additional partners may also be recruited to the joint strategic effort to prevent offending by children and young people.

The Association is able to draw on the wealth of knowledge and the breadth of members' experience to promote public understanding of youth crime issues and to play its part in shaping the youth crime agenda.

Our members run services providing community-based supervision for children and young people who offend. We also work closely with staff in secure units and young offender institutions to ensure that young people in custody have as smooth a transition as possible back in to the community.

The AYM welcomes the opportunity to provide a response to the Labour Party's policy review of the criminal justice system in England and Wales. As leaders in youth justice, the AYM would welcome the opportunity to discuss further how the community and children in the criminal justice system can be better safeguarded. The following information sets out our key points and recommendations for priorities for the youth justice system; our key position statements can be found at

<https://aym.org.uk/about-us/where-we-stand/>

### **Children first, offender second**

The AYM is firmly committed to a dedicated youth justice system which recognizes children who offend as children first and offender second. Children in the criminal justice system are recognized as the most disadvantaged children in society and recent research demonstrates these children also have experienced the highest levels of 'adverse childhood experiences' (ACEs)<sup>1</sup>.

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<sup>1</sup> [https://cycj.org.uk/wp-content/uploads/2018/08/Adverse-Childhood-Experiences-in-high-risk\\_CYCJ- Final-Version-proofed.pdf](https://cycj.org.uk/wp-content/uploads/2018/08/Adverse-Childhood-Experiences-in-high-risk_CYCJ- Final-Version-proofed.pdf)

Children in the criminal justice system also feature amongst those with the highest levels of special educational needs and communication difficulties<sup>2</sup>, with 18% of children sentenced to custody having a statement of educational need compared to 3% in the general population.

Those aged 18-25 years in the criminal justice system with special educational needs and disabilities (SEND) are however disadvantaged compared to others who are not 'offenders' who are maintained within a child centred system which responds more appropriately to their needs and understanding.

***The AYM would recommend that this discrimination is removed by retaining those aged 18-25 years who offend in a system separate from the adult criminal population.***

***The AYM would also recommend the raising of the minimum age of criminal responsibility (MARC).*** The age of criminal responsibility in England and Wales is 10 years of age and is one of the highest in Europe and lower than that in Scotland which is now 14 years.

The United Nations Committee on the Rights of the Child Revised General Comment No. 10 (2007)<sup>3</sup>, states the absolute minimum age considered internationally acceptable is 14 and encourages states to adopt higher minimum ages of 15 or 16.

## **Diversion from the Youth Justice System**

The AYM believes that children should be diverted wherever possible from entering the youth justice system. This is a primary objective of youth offending teams (YOTs) who are measured for their effectiveness of reducing the number of 'first time entrants' to the youth justice system.

The use of anti-social behaviour contracts, rather than orders is a useful tool in supporting YOTs in this, enabling behaviour to be managed with minimum contact from criminal justice agencies. However, there are a number of other very effective interventions provided by YOTs which also support this, such as restorative justice<sup>4</sup> and those offered in arrest diversion schemes<sup>5</sup>. Funding for these is not provided for nationally, even though reducing first time entrants is a national objective, delivery of these is therefore dependent on local priorities.

***The AYM recommends that assessment by YOT of all children who come into contact with the police is mandated to ensure appropriate interventions are offered to all children at all times.***

***It also recommends this is properly resourced as part of the YJB YOT grant.***

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<sup>2</sup> [http://res.afa3as.org.uk/YJBubble/YJ\\_Bubble\\_Guide.pdf](http://res.afa3as.org.uk/YJBubble/YJ_Bubble_Guide.pdf)

<sup>3</sup> <https://www.ohchr.org/EN/HRBodies/CRC/Pages/DraftGC10.aspx>

<sup>4</sup> <https://restorativejustice.org.uk/criminal-justice>

<sup>5</sup> <https://justiceinnovation.org/sites/default/files/media/documents/2019-02/mapping-youth-diversion-in-england-and-wales-final.pdf>

## **Child Centred Approaches**

Where children are required to be interviewed in police stations, their detention should be kept to a minimum and all professionals dealing with them should be properly trained to understand the needs of children who are likely to come in contact with the law, including their high levels of mental ill health, SEND, communication and ACE. This should include the police, all appropriate adults and any defence solicitor supporting the child. Detention of children in police custody should be avoided at all times and they should never be subject to strip-searching or pain-inducing restraint.

Children prosecuted from crimes should have their cases heard in appropriate settings. Currently children prosecuted are charged to either a youth court, or if the charge is indictable only, in crown court. Where such hearings are required the court rooms should be designed to assist the child in understanding what is happening to them and all professionals involved should be properly trained to understand the needs of children (as above).

Currently children can be included in video link hearings where the 'bench' or judge considers it appropriate. However, such hearings cannot properly ensure that the child is fully aware of what is happening to them, or the decisions being made about them.

***The AYM recommends that children should never participate in video link hearings.***

***The AYM recommends that problem solving courts are adopted for use with children wherever custody is not an option.*** This is an approach currently being developed<sup>6</sup> and something the AYM supports as a way to help agencies work with a child and their family to ensure their needs are met and the child is encouraged not to re-offend.

Where children are made subject to an intervention, either through the delivery of a diversionary disposal, out of court disposal, or prosecution the intervention should be focussed on their welfare needs as well as their criminogenic needs. The intervention should focus on rehabilitation and be proportionate to the seriousness of the offence committed.

In order to ensure that the intervention is as effective as possible the child must be fully participative in it. This requires the child to be fully aware of why they are being required to do something and what the aim of it is. The AYM recognizes that in order for a child to participate, their parents/carers must also be fully engaged – both of these require the professional delivering the intervention to develop a trusted relationship with the child and their family.

The AYM believes that the success of any intervention is wider than that of the measured re-offending rates of a child, a focus on which will result in short term change, rather than the more sustained change required and that delivered by the more holistic approach adopted by YOTs.

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<sup>6</sup> <https://justiceinnovation.org/publications/problem-solving-courts-evidence-review>

***The AYM therefore recommends that proper investment is committed to YOTs to ensure that all community interventions are undertaken by dedicated and specialist youth justice workers.***

***The AYM recommends these workers should be led by senior managers with substantial youth justice experience who are positioned at a senior level within local structures.***

### **Custody Should be a ‘Last Resort’**

Research has shown that compared to community interventions, custodial sentences are highly ineffective in reducing reoffending in children.<sup>7</sup> The AYM believes that the punishment of custody for children lies in the loss of their liberty and therefore should only be used as a last resort where the public need to be protected.

Where it is used, it should be for the shortest possible period and children should be detained in small units, that can support their needs and which are close enough to their home to sustain their family ties and support their rehabilitation.

All professionals dealing with children in custody should be appropriately trained to understand the needs of children (as above) and as with community interventions, for the intervention to be effective the child must be fully participative in it. Whilst the engagement of the parent/carer is more difficult, they should be fully involved as possible. As with community interventions the professional delivering the intervention must develop a trusted relationship with the child.

The AYM believes that whilst the child is in custody their needs should still be met, in order to support their rehabilitation. It is therefore important that their education/training continues to be delivered and that their physical, mental and emotional needs are met.

The use of segregation should be kept to a minimum and only to secure the safety of an individual, it should never be used as punishment. Likewise, the use of pain inducing restraint should not be used. It should be noted this latter is not allowed for adult prisoners.

### **Supporting Rehabilitation**

The vast majority of children ‘grow out of crime’, it is therefore important for children who formally enter the youth justice system not to be disadvantaged in doing so<sup>8</sup>.

Children should not have their identities revealed in any circumstances in order to ensure they are afforded the opportunity to develop appropriately into non-offending adults. Currently anonymity only applies once a child (or adult) has been charged, with many children facing stigma or vengeful attacks as a result of an allegation being made public, especially through the use of social media.

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<sup>7</sup> <https://journals.sagepub.com/doi/10.1177/0264550508099713>

<sup>8</sup> <https://journals.sagepub.com/doi/abs/10.1177/1477370807077186>

Reporting restrictions apply in youth court, unless lifted by the sentencers, but in crown court such restrictions need to be applied by the judge, creating the potential for confusion and the resultant publication of a child's identity.

A further issue is that reporting restrictions expire when a child reaches 18 years.

The adverse effects of criminalisation must not be allowed to affect a child's later life, reducing their future employment, education, and housing opportunities for example. The current criminal record system in England and Wales however does not assist in the long-term rehabilitation of children. Their privacy is not respected as required by the United Nation's Convention on the Rights of the Child as affirmed by the recent Supreme Court judgment<sup>9</sup> reaffirmed this.

***The AYM recommends that children moving into adulthood and beyond should not be required to declare all but the most serious of youth convictions and calls for a full review of the criminal records system.***

For further information about the AYM and its response to the Labour Party Policy Review, or other matters related to youth justice please contact:

Lesley Tregear, Policy and Communications Officer, AYM.

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<sup>9</sup> <http://www.unlock.org.uk/judgment-supreme-court/>