



The Association of Youth Offending Team Managers (AYM) Response to the Justice Committee's Inquiry into Children and Young People in Custody

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 Justice Committee's Inquiry into Children and Young People in Custody.

The AYM response to the questions can be found below.

1. The Youth Justice Population and Entering the System

How has the young offender population changed and what are the challenges in managing this group?

- a) *What are the characteristics of those entering the youth justice system and how has the mix of offences committed by young people changed?*

There has been a significant decrease in the numbers of children entering the criminal justice system, especially in areas where the youth offending team is resourced to provide diversion. However, children in the criminal justice system are now more widely recognized as consisting of the most vulnerable children in society.

The seriousness of offences committed by children entering the criminal justice system continues to be wide ranging, from those who commit public order, criminal damage or low value thefts to those committing serious offences, including manslaughter and murder.

- b) *What is the experience of Black, Asian and Minority Ethnic offenders of the youth justice system and secure estate and what progress has been made in implementing the recommendations of the Lammy Review?*

It would appear to the AYM that little progress has been made in changing the rate at which children from BAME groups enter the criminal justice system, or the disadvantage they face once they are in the system with number of BAME children continuing to be disproportionate, especially for remand.

- c) *How effective is the youth justice system in diverting children and young people away from custody and what more needs to be done?*

YOT's continue to be effective in providing effective alternatives to custody and this is evidenced by the low numbers of children receiving custodial sentences. However, this has in some areas been adversely affected by the combining of courts which can reduce the understanding of magistrates of proposed YOT interventions where the court presides over a number of new YOT areas. This has been further exacerbated by the removal by HMCTS of opportunities for joint training of youth magistrates with YOTs, which has been very effective in providing assurance to sentencers of the type and quality of interventions offered in the community.

- d) *Is the current minimum age of criminal responsibility too low and should it be raised?*

The current minimum age criminal responsibility (MACR) in England and Wales is the lowest in the EU, where the average is 14 years of age and is lower than Scotland which recently increased its age of criminal responsibility to 12 years of age. The current MACR breaches international children's rights. The UN Committee on the Rights of the Child, in its current revision of its General Comment on Children's Rights in Juvenile Justice, has stated the absolute minimum age considered internationally acceptable is 14, and encourages the adoption of higher minimum ages of 15 or 16.

Evidence on child development shows that children as young as 10 years of age are not mature enough to understand situations and regulate their behaviour, or to understand the consequences of their actions.

Recent research and understanding of the effect of adverse childhood experiences on a child's development further exacerbate these developmental difficulties and this is a particular issue for children in the criminal justice system who are more likely to have experienced four or more ACEs than children not in the criminal justice system.

Drawing children into the criminal justice system at such a young age damages them psychologically, reduces their life chances and increases their risk of reoffending.

2. Suitability of the Secure Estate

Is the secure estate a fit and proper place to hold children and young people?

- a) *What impact has the changing nature of the population had on the management of the secure estate?*

The complexities and needs and vulnerabilities of children within the secure estate has undoubtedly caused problems in the management of the secure estate. AYM members have frequently raised concerns about the safety of children and young people held in the secure estate in particular young offender institutions (YOIs) and secure training centres (STCs).

In 2017, HM Chief Inspector of Prisons (HMCIP) stated that 'there was not a single establishment that we inspected in England and Wales in which it was safe to hold children

and young people' and whilst there have been improvements since then, we saw in July 2019, HM Chief Inspector of Prisons triggering the Urgent Notification protocol for HM Young Offender Institute Feltham A, preventing children and young people from being placed there following an 'extraordinary decline in performance'.

b) What does a good quality custodial place for a child or young person look like and is there sufficient provision across England and Wales?

The AYM is of the opinion that the punishment of custody for children and young people lies in the loss of liberty itself and therefore should only be used as a last resort and where the public have to be protected.

Where children and young people have to be sent to custody they should be held in small local secure units close to their home. The current best examples of this can be found in local authority secure children's homes (LASCH) which provide care and support appropriate to a child's needs in an environment which most closely resembles a family home. Additionally, these establishments are staffed by social workers and education staff, rather than prison/custody officers. As a result of this, such establishments do not condone the use of pain induced physical restraint which is condoned in the secure training centres and young offender institutions. There is not sufficient availability of such establishments.

c) What is the physical condition of the secure estate and is it an appropriate environment to hold children and young people?

The physical environment of STCs and YOIs more closely resembles that of adult prisons which is not conducive to seeing children who offend as 'children first' which is an ethos supported by the Youth Justice Board for England and Wales (YJB).

The AYM believes that the environment children are detained in should be more closely aligned to that of LASCHs, small units close to the child's home and staffed by professionals who are trained in child development and management.

d) Do staff receive appropriate training and support and what more can be done to improve this?

The AYM acknowledges that the Youth Custody Service has commenced a foundation degree programme for prison/custody officers (in STCs and YOIs) in an attempt to enable understanding of child development and management, in order to improve the experience of children in their care. However, this is a relatively new development and it will take time to evaluate the effectiveness of this training on changing culture within this part of the secure estate.

The AYM is aware that training for managers in the STCs and YOIs is also being commissioned. However, it is also clear that in order to effect change developments must be supported throughout an organisation and the AYM is unclear about the training Governors in STCs and YOIs will be given to support this change in culture; without this it is hard to anticipate effective improvements being achieved.

AYM would welcome and would want to support opportunities for joint training or conferences or workshops between YOT/STC/YOI managers.

- e) *What other barriers are there to providing safe and decent accommodation in the secure estate and what more can be done to improve this?*

The size of establishments means that children are placed a long way from home which is an issue in terms of ensuring children have sufficient access to their families. As stated above, the loss of liberty for a child is significant and many serious case reviews of children who have taken their own lives in custody highlight issues with the child grieving for their family, prior to their death.

Large units also encourage children to develop groups which can emulate the gangs they have been part of in their local community. Smaller units discourage such opportunities and provide children with opportunities to make more appropriate relationships.

- f) *Is the use of force in the secure estate proportionate and properly monitored?*

It is clear from recent inspection reports that the use of force in STCs and YOIs is not proportionate or properly monitored, rather it is frequently justified after the event with many instances clearly not properly reported.

- g) *How does the experience of children and young adults differ across the different types of secure custody and what lessons can be learnt ahead of the opening of the new secure schools?*

The size of the units in SCHs is smaller and the management of children in these is very different compared to that of STCs and YOIs. In SCHs a greater focus on child development is evident in the approach can be clearly observed as being more focussed on the individual as a child. Furthermore, pain induced physical restraint is not permitted in SCHs.

3. Resettlement and Rehabilitation Children and Young People

Is sufficient support available in the secure estate and community to ensure that children and young people do not reoffend and if not, what more should be done?

- a) *Are children and young people able to access purposeful activity, education, healthcare and other support as needed whilst in custody?*

Sentence plans require children to participate in a programme of interventions which address the issues identified in their assessment. Purposeful activity, education and healthcare will be identified within these plans. However, it is clear from inspection reports that in STCs and YOIs these needs are not always met due to staffing or resource issues. Short duration custodial sentences also means that some programmes within the secure estate are not available to all children

In the community interventions are tailored to the individual's needs but these can often not be provided in custody.

- b) *Is there good collaboration between the secure state, Youth Offending Teams, Local Authorities, Social Services and other relevant organisations?*

The picture is not consistent throughout the country. YOTs are mostly (but not entirely) located in local authority structures, all have good established and positive relationships with their local authorities. YOTs will also have regular contact with children's services (social services), however the mechanism for this is often dependent on where the YOT is located in relationship to those services. As a multi-agency and multi-disciplinary service YOTs are well engaged with other relevant organisations. However, in many areas available housing stock for independent living for children leaving custody is problematic – nevertheless YOTs actively

work with housing providers to the advocate for appropriate housing. It should be noted in some local authorities there is no local authority housing stock.

The secure estate has a number of issues which do not support best practice in collaborating with local authorities and other organisations, other than YOTs and the placement of children considerable distances from their homes exacerbates this problem.

- c) Is there effective release planning to ensure that children and young people have access to accommodation, training and education upon release and what more can be done to ensure they do not reoffend?*

As above, all children in custody will have a sentence plan which commences at sentence and continues into the community. However, accommodation is a significant issue for children who are not returning to their home on release and this impacts on the ability to organise school and college placements or employment/training opportunities.

Opportunities for Release on Temporary Licence are not as prevalent as they should be. AYM feels that Temporary Release aids planning for release, improves the prospects for resettlement, builds motivation and supports the necessary identity change that is required for children to refrain from offending post release, thus protecting the public. ROTL should be a core part of every child's custodial experience and there should be an expectation that this will be facilitated for all children in order to support effective rehabilitation.

- d) What mechanisms exist to transition young people from the youth to the young adult/adult estate? What challenges does this raise and is more support required?*

YOTs work with Probation to ensure any child moving into the adult estate has a named officer and wherever possible that officer is introduced to the young person to ease transition. The YOT will also work with officers in the secure estate to ensure that the sentence plan is shared, however there is often not an opportunity for the YOT or the young person to meet with anyone from the adult secure estate before transfer. Speed of transfer should not be considered a factor for children, it is more appropriate to ensure all arrangements are in place to support effective transfer.

The AYM firmly believes that children who offend should be afforded the same rights and support afforded to those who have not offended. 60% of children who offend have special educational needs and disabilities. A significant number have speech and language issues and/or mental health concerns. But or their offending they would continue to receive support from services designed for children, rather than adults. The AYM believes that children up to the age of 25 years should remain in the youth criminal justice system, especially where such needs have been identified.

Andy Peaden
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