



From the Chair of the Association

1 June 2020

Addendum to the AYM's submission to the Enquiry of the Justice Committee into Youth Justice dated September 2019

Introduction

We are grateful for the opportunity to provide an update to our submission to the Enquiry last year <https://aym.org.uk/wp-content/uploads/2019/09/AYM-Response-to-the-Justice-Committees-Inquiry-into-Children-and-Young-People-in-Custody-25.09.19.pdf> and look forward to being able to supplement it through our discussion on 2 June.

In March this year our Association celebrated its 20th anniversary and 20 years since the national roll out of youth offending teams was completed. Our hosts for this celebration were two former chairs of the Youth Justice Board (YJB), Lord Warner and Lord McNally, and we were delighted to welcome all of the past YJB chairs. We were also honoured to have with us the current minister responsible for youth justice, and the ministers who were responsible for taking the Crime and Disorder Act (1998) through Parliament. The occasion provided the opportunity to reflect on the successes of the youth justice reforms, but also to recognise that over the last ten years there has been a drift away from the early vision. We called for a re-invigoration of the YOT model of partnership working between all relevant agencies <https://aym.org.uk/wp-content/uploads/2020/03/Special-Bulletin-March-2020.pdf>

We are aware that there are a number of key lines of enquiry for the Committee and will respond to them in order.

1. The impact of Covid-19 on the youth justice system

YOT workers have demonstrated tenacity and imagination in their use of technology to maintain contact with children under their supervision through a variety of means. Disappointingly, children in the youth justice system have not been classified as vulnerable with regard to the additional access to IT equipment provided by the Government unless they are looked after children or have an Education, Health and Care Plan. We are concerned about the high numbers of children that do not have access to phones; smart phones; lap tops; tablets or indeed in a number of cases internet access. This can make engaging these children and their families difficult and leads to concerns that children in these circumstances will fall further behind their peer group.

There has been a significant decrease in offending by young people during the period of the lockdown and we are pleased that the majority of children were compliant with the lockdown restriction. There are obviously some that have not heeded these instructions and have received warnings from the Police. There are also concerns that there has been an increase in young people being criminally exploited because the lockdown means many are hidden from view and less visible to professionals like teachers and the public.

The use of video hearings in the youth courts has been pretty chaotic, and there is a considerable backlog of cases awaiting hearings. One local criminal justice board has indicated that it may take two years to clear its current backlog of cases. Decisions to remand to custody have been taken without children being properly represented and, in the case of children for whom English is not their first language, without interpreters. With the whole process having slowed down, children on remand are remaining on remand for longer than would normally be the case. The number of children on remand has increased during this time and despite the YCS attempting to reduce the custodial population there has been a steady stream of new cases being remand across the country

Very few children have been deemed suitable for early release from secure accommodation; we believe the number of Covid-related early releases across England and Wales has been minimal, possibly as few as ten. Work within the secure estate to prepare children for resettlement in the community has ground to a halt, and most children are spending long periods alone in their rooms each day. All new admissions have been required to undertake a 14-day isolation on reception at an institution which, for a child experiencing custody for the first time, must be a daunting experience. We are rightly concerned about the lack of visibility of children within the secure estate, particularly in preparation for resettlement and sentence planning and although we welcome the changes in the use of video conferencing we are concerned that our most vulnerable children are not feeling connected to their YOT workers and building up an effective working relationship.

2. Changes in the youth justice population

Section 1 of our original submission outlines some of the key changes in the youth justice population. We would also draw attention to our recent work with the Department for Education and the children's charity Achievement for All which supported the introduction of the SEND reforms into the youth justice sector. This project found evidence of high levels of unmet need for specialist education and health services, especially in relation to speech, language and communication deficits and early childhood trauma. We have since launched a SEND Quality Mark programme to recognise and share best practice.

Partly as a result of this work, there is currently in YOTs a far greater awareness of the complexity of needs among children involved in and on the periphery of the Youth Justice System, and a growing body of expertise in working with them. These include a high prevalence of children with unidentified and unmet speech, language, and communication needs (SLCN) affecting 60% + in community settings and 66 – 90% in custody. This is further impacted by adverse childhood experiences as a result of trauma. Many are at risk of or directly impacted by child criminal exploitation (CCE) and / or child sexual exploitation (CSE). Whilst we have seen significant improvements in staff knowledge within YOTs, this has not been routinely reflected by an increase in insight and effective practice across the wider formal youth justice system (routine training and consciousness raising of magistrates, judges, legal advisors, defence solicitors, CPS etc) . Likewise in key settings and organisations that children are frequently in contact with prior to entering the formal YJS such as alternative education facilities and residential units there remain gaps in knowledge and insight around the overlaps between the needs highlighted above and issues such as behavioural issues (81% overlap with SLCN) and involvement in CCE / CSE (up to 92% of children most vulnerable to Exploitation have SLCN) . YOTs can and do have an impact upon these wider networks but what is also required is consistent and routine access to key professional specialists such as Speech and Language Therapists. These are based in some, but not all, YOTs where they bring benefit to other key partners in the youth justice system.

The project led us to recognise the need to strengthen local partnerships so that all agencies are actively engaged in strategic planning and resourcing. Too many YOTs are becoming absorbed into local authority children's services departments rather than having their own separate identity as partnerships. This has allowed other partners- perhaps with the laudable exception of police services- to pull back. Our national survey of YOT managers last October found that nearly 50% believed that their local authority would take key decisions on, for example, the restructuring of the YOT or the appointment of new YOT manager, without requesting any input from partners. Over 80% said they had no access to a pooled budget provided by partners and thus no ability to commission specialist services on a multi-agency basis.

The YJB last published guidance on YOT governance in 2013 under the title "Modern Youth Offending Partnerships". It indicated it was "committed to producing annual updates to ensure that this guidance remains relevant" (p4) but has so far been unable to do so.

The National Probation Service appears to have a particular difficulty in appreciating the contribution that it could make to preventing youth crime and has consistently sought to reduce its input.

As we have become more aware of the pace of the neurological development of children, particularly those with adverse early childhood experience, we are even more convinced of the need for a multi-agency service for young people up to the age of 25. Many services outside of the justice system already recognise the need to provide different services for this age group. In our experience the transition of 18-year-olds from youth justice into an all-age adult system does not work well.

3. Progress in implementing reforms and the introduction of secure schools

Overall, we regard progress in the implementation of the reforms proposed in the Government's response to Charlie Taylor's report in February 2016 as limited. There has been significant progress in diverting children from the formal processes of the criminal justice system and in the development of the workforce in the secure estate. We have seen less evidence of progress in the roll out of offender health commissioning for children, the links with YOTs from all age Liaison and Diversion services and specialist forensic mental health services are ad hoc; sentencing reform and the review of the way the criminal records system retains information about children remain underdeveloped.

We continue to have concerns about the strategy for the reform of the secure estate. The vision for secure schools has not progressed sufficiently. As we understand the situation, we are likely (at least for the remainder of this decade) to have four different types of secure accommodation for children, all commissioned from the centre. Children continue to be placed a long distance from home which makes resettlement more challenging.

With the numbers of children requiring secure accommodation now consistently under 1,000 at any one time there is an opportunity to simplify the system and make it more locally responsive. A network of, say, 40 secure children's homes, commissioned locally at a police force area level, and each accommodating up to 30 children could resolve many of the current issues.

4. Progress in implementing the recommendations in the Lammy report

In his report, David Lammy noted that the youth justice system had been quicker than the adult system to recognise the need to tackle the issues of disproportionality, and YOTs continue to monitor and, where necessary, challenge themselves and other local agencies. The recent reductions in the numbers of children entering the YJS and the numbers going into custody have not been equally

spread across all ethnic groups, so that disproportionality is now, if anything, more acute than when the report was written. YOTs are aware of this challenge and developing effective prevention and diversion measures for BAME children is a priority for services.

We regard David Lammy's recommendations in relation to enhancing the role of our youth offender panels (community volunteers), and in relation to 18-21-year olds as constructive. The current referral order process involves a "double hearing" by the court and then by the youth offender panel. This drawn out process is not always helpful to children or victims.

5. The work of the youth courts and alternatives to custody

We referenced in section 1 above the challenges being faced by YOTs in relation to the work of the youth court during the Covid-19 emergency, and concerns around the issue of the backlog of cases. There is a real need to look at the issue of delays between the commission of offences and the commencement of Court proceedings as these delays impact on everyone including victims. A key problem is the use of release under investigation and subsequent delayed charging decisions by the Police. These delays are particularly problematic in dealing with children.

We are also concerned at the difficulties there are in communicating with the magistracy which have increased over recent years as local Courts have closed and the ability of local services to participate in joint training with magistrates has diminished as has the local nature of relationships and understanding of local provision. Confidence in the local YOT from the magistracy is really important and an essential part in YOTs being able to deliver alternatives to custody.

The lower numbers of children involved in serious or persistent offending has been very welcome, but these lower numbers, coupled with several years of budget cuts, have presented YOTs in some areas with challenges in delivering intensive supervision programmes in a consistent way.

YOTs were early innovators/early adopters of Triage style diversionary schemes (e.g. Bureau scheme, Swansea) even prior to the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act of 2012 which enshrined a requirement for 'joint decision making' between YOTs and Police on "out-of-court disposals (OOCs)". The sharp reduction of youth first time entrants to the justice system is arguably one of the greatest achievements of the last couple of decades in the CJS and is largely attributable to the development of local point of arrest diversionary schemes and trusted partnerships between police and YOTs specifically - but with CPS and judiciary too. Changes to police performance measurement and development of child first/offender second culture across the system have obviously been significant factors, but well-designed point of arrest diversion schemes have 'operationalised' this and ensured sharp declines in FTEs has been maintained.

Generally OOCs are used appropriately; typically some form of screening or even full assessment is undertaken by YOTs to help inform the decision to divert away from court (or not – it is not a one way street and YOTs will recommend a charge if deemed necessary). Many areas have OOC scrutiny panels in place, and typically these panels are chaired by magistrates and involve magistrates, police and YOTs scrutinising a sample of youth OOC decisions – the seriousness of the offence, but also the context of the offence are considered and in the vast majority of instances scrutiny panels agree with the OOC issued. In 2019 in Cheshire for example, 97% of youth OOCs scrutinised the panel agreed with the disposal issued. It is worth stating that some of the OOC decisions which attract negative headlines such as "*child let off for rape offence*" are actually appropriate when you consider the context and they are not decisions taken lightly and typically come from strategic meetings involving YOTs, children's social care, police public protection and CPS looking carefully at the circumstances of the 'offence'. Very often sexual offences committed by

children are intra-familial and within context of wider abuse, trauma or neglect and so an OOC can often be an appropriate disposal and part of a welfare orientated or child protection response including therapeutic/rehabilitative work with the 'offender'.

There are of course still issues with OOCs. Lammy's review highlighted that BAME 'defendants' are consistently more likely to plead not guilty than white defendants. Lammy found the primary reason for this difference is a lack of trust in the CJS among BAME communities and given most (not all) youth OOC diversion schemes are predicated on an admission of guilt there potentially remains a disproportionality problem here which could be the subject of further research.

The absence of a national framework for OOC delivery means there is still a lot of variation across the country in how OOCs are delivered resulting inevitably in 'justice by geography'

6. The work of the secure estate for children

We remain concerned about levels of violence against staff and other children in our larger secure establishments (secure training centres and young offender institutions) and would again make the point that these problems are less evident in local secure children's homes. This cohort of children has very complex needs requiring intensive specialist interventions; they are unlikely to thrive in large institutions.

We are also concerned about the numbers of restraints to 'control' behaviour within the secure training centres and young offender institutions. There is a disconnect between the inspection regime which does not permit pain inducing techniques. However, the prison rules state that pain can be applied if there is a risk of harm to the child or an officer. This is particularly significant for children who have experienced trauma, where we are re-affirming the response to this is with more pain.

We recognise the progress that is being made by the Youth Custody Service to professionalise the workforce and develop the role of the youth justice specialist. However, too many governors tend to see their work in YOIs as a stepping stone to bigger jobs in the adult sector rather than taking the opportunity to create a career for themselves in the children's sector.

7. Resettlement and re-offending after release from the secure estate

We recognise that resettlement of children leaving custody needs to be improved. The use of Release on Temporary Licence (ROTL) could be a useful tool in helping children re-integrate to society and family before their release. However, the youth custody sector appears to use the same processes as the adult prison service with no recognition of the fact that the process relates to a child who in many cases will be within the local community in a matter of weeks anyway. ROTL decisions are governed by the risk of failure of a child to return to custody or removed because of internal behavioural issues. As a consequence ROTL is rarely granted. We think that this responsibility could be passed to (or at least shared with) the YOT manager in the same way that responsibility for the management of both parts (custody and community) of the Detention and Training Order, should be shared. There is scope for ROTL to be a compulsory part of every order.

Local Resettlement Consortia can provide evidence of success in bringing partners together across a local criminal justice board area to focus multi-agency effort on children leaving the secure estate.

The South and West Yorkshire Resettlement Consortium is one of a number of consortia around England, although there is by no means full coverage. It was established in 2014. The Consortium

has strong support from a wide range of stakeholders, including police and crime commissioners, the secure estate, YOTs, Police, Probation, DWP, the YJB and NHS England.

The Consortium has a range of strengths, including: Enabling joint working and standard setting at a strategic level e.g. has set local standards around post custody accommodation which have been adopted across Yorkshire & Humber, providing an operational managers forum to share effective practice and problem solve, offering a combined voice when responding to changes in national policy or consultations e.g. potential changes around the youth secure estate, enabling the sharing of resources between areas for a relatively small cohort e.g. group work sessions, providing an evidence base and allows data comparison through the resettlement tracker, giving a focus on a complex and vulnerable cohort who could cost the public sector a considerable amount if their offending continues – it's an invest to save approach, providing a platform for obtaining funding on a regional basis e.g. the SEND Department of Education work, Nuffield/Bedfordshire University Research into the life trajectories of Looked After Young People who are incarcerated.

We would like to see the consortium approach expanded and supported financially with some clear direction given to partners about their participation in their local consortium. Local consortia would be well placed to develop step-down accommodation after custody if this were to become a properly funded, national requirement.

Andy Peaden, Chair

Hazel Williamson, Vice-Chair

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