

AYM's response to a survey from the Shadow Justice Secretary, Steve Reed, as part of his review into the Criminal Justice System, January 2023

1. (This section asks for contact details only)

2. This section explores what leads people to commit their first offence.

i. Why do people offend?

ii. What are we failing to do to prevent first-time offending?

iii. What actions would make the system more effective at preventing offending?

Our organisation is the professional body for leaders and managers in the 137 multi-agency youth justice services, also called 'YOTs' in England. We are proud of the work that our members have done to reduce the numbers of children entering the criminal justice system. In the ten years from 2011 to 2021 the number of children per year entering the criminal justice system fell from 46,000 to 8,800. The youth justice system has a statutory principal aim to prevent offending by children and young people. We strongly support this aim and routinely call for investment in local services aimed at helping children refrain from criminal activities and anti-social behaviour.

i. Children engage in criminal and anti-social behaviour for many different reasons and the large majority of them grow out of it by their early 20s. Research into brain development indicates that the brain continues to develop until our mid 20s. Young people cannot fully anticipate the likely impact of their offending on other people nor on their own futures. There is increasing evidence to support a correlation between childhood trauma and future offending.

We have worked closely with our colleagues in policing to ensure that there is in place a range of interventions (based on assessments of risk and need) for children and their families which avoid the need for a formal criminal justice process.

ii. Some parts of our education system let down children who struggle with their learning and pushes them towards absenteeism. This in turn increases their vulnerability to exploitation by adults. Specialist educational provision, including speech, language and mental health interventions, is patchy and rarely full time.

Children in our care system are at a greatly increased risk of becoming criminalised. Many residential units for children with challenging behaviour are privately run and staffed by people with limited experience of building positive relationships with these children. Too often the Police are called in to deal with misbehaviour, sometimes resulting in prosecution

iii. We believe that all children entering the youth justice system or at risk of doing so should be assumed to have special educational needs including speech and language and communication difficulties unless a full assessment proves otherwise. They should have a full educational timetable that is appropriate to their needs. We should aim for significant reductions in temporary and permanent school exclusions, 'off-rolling' and 'coerced home education contracts'.

The new 'Turnaround' fund is a welcome addition to local budgets for youth crime prevention but hard-pressed local partners should be discouraged from seeing this as an opportunity to reduce their contributions to youth justice services. The eligibility criteria for this programme appears to exclude children not in education/low attendance/permanently excluded (or at risk of).

We support the National Protocol on Reducing Unnecessary Criminalisation of Looked After Children and Care Leavers and we work with partners to assist its implementation.

3. This section explores what leads people to repeatedly offend.

i. Why do some convicted offenders go on to reoffend?

ii. What actions should we take to reduce the likelihood of reoffending?

i. The majority of persistent adult offenders began their offending as children. Long term outcomes for children who receive a custodial sentence are especially poor. The disruption of links with their home and community can strengthen their ties to other people who offend and reinforce a negative self image. Children from some BAME communities are particularly at risk of becoming criminalised and of having a damaging experience of custody.

ii. We recognise that a small minority of children in the justice system may need to spend a period of time in secure accommodation for the protection of the public. We believe that such accommodation is most effective when provided in small units close to their home area. We therefore support the view of the Children's Commissioner that "We need a radical new approach to reducing the numbers of children in custody to an absolute minimum and transforming secure care for children so that rehabilitation is at its heart." We believe that education is an important part of this rehabilitation and that children must feel safe whilst subject to such provision. We do not have confidence in the ability of the prison service consistently to deliver safe, constructive and locally-based secure accommodation for children and young people.

We fully support restorative approaches and are committed to them being embedded in youth justice. These enable children to accept responsibility for their choices and actions, to reflect on how they interact with others and find positive ways forward to prevent harm and conflict. A restorative approach should be central to our work with children and young adults.

We share the determination of the Youth Justice Board and others to address the disproportionate representation of children from minority ethnic groups in the youth justice system.

4. If you were the Secretary of State for Justice, what key changes would you make to the criminal justice system as a matter of priority?

The criminal justice system needs to respond to new understandings of adolescent brain development by establishing a consistent and coherent system for children and young people up to the age of 25. The success of the youth justice system is founded on statutory duties placed on local and national organisations to work together to a common aim. This could be replicated for young adults.

We support implementation of the Council of Europe resolution 2010 to “set the minimum age of criminal responsibility at at least 14 years of age, while establishing a range of suitable alternatives to formal prosecution for (children)”.

5. Please give examples of financial waste or savings opportunities within the criminal justice system and/or the MOJ that could be more effectively invested

Court processes are expensive and can often be avoided by effective, alternative interventions. They build in delay which is unhelpful for children and victims. We support efforts to ensure that the justice system completes proceedings against children in a timely manner. In particular we support the UN Convention on the Rights of the Child (2019) that our “youth justice system should extend protection to children who were below the age of 18 at the time of the commission of the offence but who turn 18 during the trial or sentencing process.”

As indicated above we support implementation of the Council of Europe resolution 2010 to “set the minimum age of criminal responsibility at least 14 years of age, while establishing a range of suitable alternatives to formal prosecution for (children)”. The criminal justice system is not the right place for very young children.

We also support the National Protocol on Reducing Unnecessary Criminalisation of Looked After Children and Care Leavers (3) and we work with partners to assist its implementation. The criminal justice system is not right place for children for whom the local authority already has a responsibility as corporate parent.

We support work that increases our understanding to help mitigate the impact of adverse childhood experiences and early trauma on the neurological development and behaviour of children in the justice system. We welcome research into the impact on behaviour of brain development during adolescence and support policy developments that take account of this research

We believe that all children entering the youth justice system should be assumed to have special educational needs including speech and language and communication difficulties unless a full assessment proves otherwise. (10) Such assessments and interventions should be more widely available before prosecutions can be considered.

The key tools for success in youth justice are positive relationships between children and well-trained, compassionate adults with manageable workloads and with professional skills brought from a variety of backgrounds including social work, education, probation, policing and health care.

6. Please provide any additional comments below.

The Labour government's Crime and Disorder Act (1998) is 25 years old in 2023. The establishment of local youth offending teams, supported and overseen by the Youth Justice Board, all working towards the same aim, were a key part of that legislation. It has been a strikingly successful piece of policy reform and has stood the test of time. We would welcome consideration being given to replicating aspects of the youth justice system for young adults.

We look forward to further discussions with the Shadow Justice Secretary and thank him for engaging constructively with these issues.