



## **Response from the Association of Youth Offending Team Managers to the Sieff Foundation's Call for Evidence on "how cases in the justice system involving children with SEND and neurodivergence can be most effectively and efficiently handled". March 2024**

The Association of Youth Offending Team Managers (AYM) was established in 2000 and is the professional association for Heads of Youth Offending Services and managers in Youth Offending Teams in England.

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 website has details of where we stand on many key issues <https://aym.org.uk/about-us/where-we-stand/>

We appreciate the work that the Sieff Foundation is doing to raise awareness of children in the justice system with SEND and neuro disabilities and are glad of the opportunity to present some of the evidence from our own work.

### **Our work for the Department for Education 2016-18**

From 2016 to 2018 AYM worked in partnership with the (now defunct) children's charity, Achievement for All (AfA), and Manchester Metropolitan University (MMU), to deliver a DfE-funded project aimed at raising awareness of the implications of the 2014 SEND reforms for the youth justice system. This contract allowed us to visit all of the English regions in order to understand the key issues and challenges facing local authorities and YOTs in relation to this cohort of children and observe good practice.

The DfE declined to publish our final report on this project but we feel able to present its key findings below:

- a. **The prevalence of CYP with SEN** in the youth justice system appears to be greater than statistics may indicate (both in the case of CYP with needs that are significant enough to trigger the EHCP process, and those that schools and academies would normally support through delegated SEN Support funding)
- b. **Information flow and case management between LA SEND Teams and YOTs** appears to be adequate and well established in some instances, with room to improve in many areas of the country.
- c. **Information flow** and provision continuity between sending **LAs and secure estate** lacks consistency; whilst some outstanding practice is apparent, there is much that can be

improved in terms of communication, liaison and meeting individual learner needs within elements of the secure estate.

- d. **LA Staff** have welcomed a professional support and development resource to illuminate the youth justice pathway more clearly, and **YOTs have welcomed** a similar resource that helps all staff understand the types of SEN that are prevalent in the youth justice system, and a database of strategies ideas and advice from other providers to inform intelligent design and redesign of local services (**The Youth Justice SEND Bubble**)
- e. **Some YOTs find it extremely hard to secure adequate resources to support CYPs with SEN in the youth justice system.** However, there are examples of local effective practice that other areas can learn from. **Effective practice includes:**
  - a. **The co-location of specialist provision** (e.g. Speech and Language Therapists, Ed Psych, CAMHS) takes unnecessary delays out of the equation that sometimes occur if provision needs to be “commissioned in”.
  - b. **Access to high needs funding** through local delegation policy and practice.
  - c. **Multi-Agency “Teams Around the Child”** working together, not in isolation, meeting regularly.
  - d. **Proactive awareness and intervention work** with YOTs working within early intervention teams, Fair Access Panels and within Local Inclusion networks.
- f. **Delegates attending the workshops felt strongly that an increased strategic responsibility and corporate accountability for CYP entering, within and leaving the youth justice system would support securing better outcomes for a group of young people with significant complex needs** (where, in the majority of cases, SEN conflates with structural socio-economic disadvantage and health and well-being issues).

#### Other Considerations

Delegates at the national series of workshops, in every area of the country, expressed in a variety of different ways what they are describing as a worrying and disturbing “flooding of the tributaries” leading to the youth justice system.

A number of contributing factors were described:

- **Rising rates of permanent exclusion** from schools and academies, at Key Stage 2 as well as Key Stage 3, with many of these young people struggling to gain quick access to mainstream education (a powerful protective factor to entering the youth justice system)
- **Inadequate “alternative provision”, both within mainstream settings and in PRUs/APs** (part-time timetables resulting in some young people becoming vulnerable to criminalisation; no basic skills (literacy and numeracy, life skills) provision that in many cases would meet the most significant educational needs of these CYPs; illegal exclusion practice, etc.)
- **Coerced home education** appears to be used more significantly, as the “only option” to families with CYP close to permanent exclusion. Many of these parents and families are hard pressed themselves, and in no way equipped to “home educate”.

It is saddening to note that this situation is affirmed in the voice of young people who are in the youth justice system.

Also remaining unpublished is MMU's report on the work of the project, "Falling through the Gaps" (below)



MMU Report - Year 2  
YJ SEND Project\_.doc

### **Our work with Achievement for All and Microlink PC since 2018**

Our work under the DfE contract made it abundantly clear to us that YOTs on their own were unable to deliver the change that was needed in local authority practice and the practice of schools in their areas. In association with DfE, the Youth Justice Board, academics, and practitioners, we developed a set of criteria for effective, local, interagency practice with children in the justice system. We turned these criteria into a "Quality Mark" programme through which local area partnerships could be recognised for the quality of their joint work. The programme was based on a similar programme that AfA was already implementing in schools and was well received in the youth justice sector. When AfA sadly went into administration in 2021, we were able to establish a partnership with Microlink PC in order to keep this programme going. Currently, over 60 local youth justice partnerships are engaged with the programme, details of which are below:

<https://www.microlinkpc.com/wp-content/uploads/2023/08/Youth-Justice-QM-and-QL-Awards-Process.pdf>

The Quality Mark programme has two levels: "Quality Mark" and "Quality Lead". Those partnerships that achieve the higher level of Quality Lead (QL) are able to demonstrate evidence of improved outcomes for children and produce a case study to share with others. In Spring 2023, Microlink (in partnership with Association of Youth Offending Team Managers) began a very successful season of CFEP (Child First Effective Partnership Practice) Webinars, highlighting frontline initiatives, structures and ideas that are reducing first-time offending rates and impacting significantly on reoffending rates and successful ETE outcomes. Please see <https://www.microlinkpc.com/child-first-effective-partnership-practice-webinars/>

This effective practice has been identified and celebrated through participation in the Youth Justice SEND Quality Assurance process.

So far, we have heard presentations from:

**Milton Keynes:** Targeted speech and language assessments for primary and secondary children at risk of exclusion. <https://youtu.be/SpSlryi3gaQ>

Outstanding Child First Partnership Practice in **Staffordshire** and **Blackburn** and Darwen, featuring "upstream" diversion and prevention in Staffordshire through local SEND networks, and highly effective multi-agency practice in Blackburn and Darwen <https://youtu.be/XqR5H8Vl1AM>

**Camden** featured an interconnected partnership provision within an Integrated Youth Support Service: the power of networking and intelligent systemic design. **St Helens** highlighted a prevention offer supported by a dedicated Education Re-engagement Mentor, working with children, schools and families, a weekly health panel, and a training offer to local providers (such as Care Homes). <https://www.youtube.com/watch?v=BJJYv-N2sL8>

Colleagues from **Swindon** and **East Sussex** Youth Offending Services describe how they are building and empowering local services and providers to be “Child First” in word and deed. <https://youtu.be/oB1rd3XHF-0>

We also had a session led by **Sharon Gray** (YJB Board Member) and **Marius Frank** (leading the YJ SEND Quality Mark process since 2016) looking at the future of Child First Practice, as below:

2030 Vision: The Future of Child First Partnership Practice

A reflection on some of the advances in systematic thinking, Assistive Technologies and brain sciences that could have a dramatic impact on reducing the numbers of children entering youth justice pathways in the next decade.

Sharon Gray (YJB Board Member) and Marius Frank (leading the YJ SEND Quality Mark process since 2016) reflect on some of the latest advances in systemic thinking, assistive technologies and brain sciences that could have a dramatic impact on the numbers of children entering youth justice pathways in the next decade. <https://youtu.be/sqMfqldLVus>

### **Our work with the Royal College of Speech and Language Therapists (RCSLT)**

Speech and language difficulties among children in the justice system severely impacts their capacity to understand police and court processes and the requirements of their community supervision. Those youth justice partnerships which have been successful in recruiting a speech and language therapist (SaLTs) to their YOT have noticed significant improvements in their work with children.)

The AYM has a history of close partnership working with the RCSLT since 2007. This partnership has been both productive and instrumental in bringing to the fore both the prevalence and impact of Speech, Language and Communication Needs (SLCN) and greater focus upon the frequently associated needs around SEND and neurodiversity . The overarching aims of this partnership approach has been around a number of key themes including ensuring these needs (SLCN ; SEND ; Neurodiversity) were identified and reflected within formal assessments and therefore improving the quality of support from both Youth Justice and other professionals (the inclusion of screening within the ASSET Plus assessment tool), increasing access to SaLT for Youth Justice Services and partnership working around access to training and insight for professionals involved in organisations across the Youth Justice Sector. The Royal College’s 2021 briefing paper explains how this role is being developed. ([BRIEFING-JY-2021.docx \(live.com\)](#))

The AYM with the RCSLT have over the years been instrumental in initiating wider partnerships to raise the profile of children in the Youth Justice System with SLCN, including the Children’s Communication Coalition a group of experts in communication and justice seeking action to meet the needs of vulnerable children with communication disability. This brought together representatives from the AYM, Royal College of Speech and language Therapists, Office of the Children's Commissioner for England and Wales, the Communication Trust , the Prison Reform Trust

and Sainsbury Centre for Mental Health to drive forward the agenda around Speech Language and Communication Needs amongst children in the Youth Justice System. One of the earliest successes was in working together in a co-ordinated way to ensure that Speech, Language and Communication Needs were recognised as a core need reflected throughout the updated Youth Justice Board National Standards for Youth Justice in 2009 , which served to bring on board the Youth Justice Board before the end of 2009 in both supporting consideration of SLCN and providing additional funding for a national training programme that was developed with input from CCC and delivered by the Communication Trust to 60% of Youth Offending Teams and other key partners in the Youth Justice System.

The AYM along with the RCSLT was also represented on the Communication Council which was formed in 2010 as an expert group brought together to monitor and support the Government's initiative to deliver improvements in services for children and young people with Speech, Language and Communication Needs (SLCN) following the Bercow Review (July 2008) that reported to Directors within the Department for Education and the Department of Health. The joint working of the Council played a significant part in the successful achievement of many of the Bercow Report recommendations. The Communication Council ended in 2018.

Since that time, as outlined earlier, the AYM has continued to work in partnership with RCSLT and other national and international partners to both , to drive forward and encourage further research that will assist in addressing systemic barriers that exist within the Youth Justice System for children with SLCN , SEND and needs relating to neurodiversity- a current example being the European Cooperation in Science and Technology (COST) Action CA22139 – Justice to youth language needs; human rights undermined by an invisible disadvantage (Y-JustLang) [Action CA22139 - COST](#) which will operate until 2027 and is seeking to address “the lack of consistent policies to establish the language abilities that children and adolescents need to possess in order to participate in justice proceedings effectively”.

The COST Action further explains that: “The journey through criminal justice is based on highly verbal processes that require a level of verbal ability that is unlikely among young offenders for several reasons: firstly, research in the English-speaking countries (severely limited in other European countries) shows that the prevalence of language impairment is up to six times higher in the population of youth offenders; if undiagnosed and untreated, it increases the risk of re-offending. Furthermore, linguistics research demonstrates that some syntactic abilities are still under development during (pre)puberty, and that the abilities to connect language to context may be underdeveloped even after the age of 18. In addition, ability to handle structurally complex language is low when academic attainment is low, which is common among young offenders. However, there are no procedures to establish language ability across populations to date and lack of awareness pervades the justice systems. Even where screening for language difficulties exists, it is not sufficiently nuanced to capture issues with the most common structures found in justice interchanges and no attention is paid to the needs of children from different education backgrounds, with disabilities, who are multilingual, or who are deaf or hearing impaired. To ensure protection of human rights of this vulnerable population, an Action to assess the situation at European transnational level and to propose specific measures to identify language needs is urgent.”

Finally, in response to you seven questions, we would submit the following:

1. What is the current thinking on the treatment of SEND and neurodivergent children in the Youth Justice System?

The last five years has seen a significant advance in the level of awareness in youth offending teams of the needs of these children both in the community and in secure accommodation. We would welcome a rise in the minimum age of criminal responsibility for all children so that more children are fully assessed before entering the justice system.

2. How best to achieve the current mandate of “Children First” from the UN Convention of the Rights of Children (UNCRC) for children under 18 with SEND and neurodivergence in the Youth Justice System?

We welcome the stance taken by the Youth Justice Board, H.M. Inspector of Probation, and others to embed Child First practice into national standards for youth justice and into the inspection framework. More can be done to increase understanding across the system of the communication challenges faced by children who are neurodivergent and who suffer from delayed language development.

3. Whether there might be ways of dealing with cases currently in the Youth Justice System (YJS) involving the SEND and neurodivergent cohort more appropriately and cost effectively outside of the YJS?

An increase in the age of criminal responsibility could make a significant difference to the numbers in the system. Keeping children in full time education with appropriate support is a proven way to reduce offending and reoffending.

4. How viable would it be for this cohort of children to be dealt with through the SEND tribunal system?

The existing system for Education, Health and Care Planning could work better for children who are excluded from mainstream school, “off rolled”, or made subject to home education contracts as an alternative to exclusion. The inconsistent attendance and challenging behaviour of these children often prevents full assessments being made by local agencies at an early stage. We would welcome further discussion about how a tribunal process might work for children whose family situations are chaotic.

5. What might be the advantages and disadvantages in using the tribunal system for cases involving under 18s with SEND or neurodivergence?

See above (Qu4)

6. How can the work of relevant government departments, public bodies, multi-agency teams, courts and tribunals best be coordinated to deal with cases in the justice system involving children with SEND and neurodivergence?

Our case studies from youth offending teams provide some excellent examples of local, multi-agency action.

7. What are the most effective mechanisms to ensure that children with SEND and neurodivergence are constructively and fully engaged in the justice process?

The appointment of SaLTs to youth offending teams has proven to be an effective way of improving the awareness of all YOT staff to these issues. This in turn influences the

awareness of other youth justice partners. We recommend additional funding to local youth justice partnerships for such appointments.

For further information please contact:

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