

## **Prison Reform Trust consultation response to the**

### ***Public Bodies Bill: reforming the public bodies of the Ministry of Justice***

**October 2011**

*The Prison Reform Trust is an independent UK charity working to create a just, humane and effective prison system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. We welcome the opportunity to respond to the Ministry of Justice consultation on the Public Bodies Bill. We have restricted our response to the particular areas of the consultation in which we have an active engagement.*

#### **Question 14: What are your views on the proposed transfer of functions of the Chief Coroner to the Lord Chief Justice and the Lord Chancellor: in principle and/or in relation to the particular functions detailed in Annex A?**

The Prison Reform Trust runs an advice and information service that responds to concerns raised by around 6,000 prisoners and their families each year. It is through this service, our membership of the Ministerial Council on Deaths in Custody and our conjoint work with Inquest, Justice and Liberty to ensure the inclusion of prisoners within the ambit of the Corporate Manslaughter Act, that we are aware of the current limitations of the Coronial service.

The Prison Reform Trust welcomed original proposals to establish the office of Chief Coroner and saw this as a mechanism to give greater weight and adequate resources to this vital and sensitive role and function. Our contact with a number of families who have experienced the death of a loved one in custody indicates that they almost always face unacceptable delays in Inquest hearings. Hearings themselves may be held in unsuitable premises with little or no support for bereaved families. The system of means-testing before adequate representation leads to families facing high costs, and in some instances re-mortgaging property, in order to find out how and why a close family member died while in the care of the State. We are

concerned that, far from dealing with these matters and creating a system that is responsive to the needs of bereaved families, the cost-cutting measures proposed may make matters worse.

**Question 15: What are your views on the proposed Ministerial Board and supporting Bereaved Organisations Committee?**

The Prison Reform Trust queries whether the non-statutory status of the proposed Ministerial Board will be adequate given its standard setting and monitoring role. We welcome the formal engagement of Organisations for the Bereaved (rather than ‘Bereaved Organisations’).

**Question 16: Are there any functions of the Chief Coroner not adequately covered by the proposals set out in the consultation paper, in your opinion? Please explain your reasons.**

The Prison Reform Trust notes with concern that oversight, and delegation of this oversight, by the Lord Chief Justice specifically excludes responsibility for ‘the leadership, culture or behaviour of coroners’.

**Question 23: What are your views on the proposed abolition of the YJB?**

The Prison Reform Trust is opposed to the abolition of the Youth Justice Board (YJB) as proposed in the Public Bodies Bill. The YJB has expertise in youth justice policy and practice, has excellent links with local government and, as an independent body, can champion the needs of children who offend and their victims.

In recent years the YJB has shown great leadership and innovation. Though the organisation abandoned a corporate target to reduce custody numbers, it has been very influential in the achievement of the 30% reduction in child custody which has occurred over the last few months. In a recent analysis of the reasons for the fall in child custody, Rob Allen cites changes in the way *“the courts have sentenced under-18s, stimulated in part by changes in the law and sentencing guidance and in part by the improved performance and focus of YOTs. This in turn has been stimulated and sustained in a low profile but effective way by the YJB and by campaign groups including Out of Trouble (PRT)”*<sup>1</sup>.

A recent NAO report found that *“the Board has been meeting its objective to reduce custody numbers, partly through supporting caseworkers to produce recommendations for community sentences that sentencers have confidence in”*<sup>2</sup>. Another factor in the fall in child custody has been the reduction in first-time entrants, in which the YJB has played a similar influencing role.

---

<sup>1</sup> Rob Allen (2011) *Last resort: exploring the reduction in child imprisonment 2008-11* PRT: London

<sup>2</sup> National Audit Office (2010) *The youth justice system in England and Wales – reducing offending by young people* NAO: London

**Question 24: Do you believe that there are any functions of the YJB that will not be adequately covered following the proposed abolition and suggested future handling of functions as set out above?**

The proposal to abolish the YJB set out in the Public Bodies Bill would mark a major change to youth justice governance. If the main functions of the YJB were taken over by the Ministry of Justice, it is essential that there remains a unit or directorate dedicated to children. The UN Convention on the Rights of the Child classifies all those under the age of 18 as children and states that the justice system should treat children differently to adults. In order to abide by this, staff, resources and management within the Ministry of Justice must be dedicated to children. This also means that officials should have, and have access to, expertise and advice on vulnerable children and be mindful of the importance of meeting the welfare needs and the rights of children involved in the criminal justice system.

We are particularly concerned that two current responsibilities of the YJB – commissioning a distinct secure estate, and placing under-18s in custody – should be fulfilled by Ministry of Justice staff working within the Youth Justice Unit/directorate, rather than within the National Offender Management Service (NOMS). Whilst commissioning and placement in the juvenile secure estate should remain the responsibility of central government, children’s needs are distinct and are not well met by current provision in young offender institutions (YOIs). The secure estate team within the Ministry of Justice must be separate from those dealing with adult custody, so they have the independence needed to make custody truly appropriate for the needs of vulnerable children. Without these measures there is a risk that, over time, authority, dedicated budget and single-focus priority on under-18s will be lost and services and outcomes for children and their families will suffer.

We are concerned that the commitment, outlined in the consultation, that *“the commissioning of the youth justice secure estate and the placement of young people in custody continue to be driven by people with a dedicated focus on the needs of young people”*, does not in any way preclude the commissioning of the secure estate being taken over by NOMS. ‘Driven by’ would allow staff within the future Youth Justice Unit to guide a separate team in NOMS. This is unsatisfactory. Staff within NOMS are experts in the adult prison system and they run juvenile YOIs, the least satisfactory parts of the children’s secure estate. If the children’s secure estate is to improve and to remain dedicated to children’s needs, the commissioning of the secure estate should remain totally separate. We would recommend the above phrase be amended to ensure commissioning personnel are completely separate from NOMS.

We welcome the suggestion that John Drew lead the transition to the new Youth Justice Division, but are concerned that if his appointment is a short-term contract, and he is replaced by a career civil servant, the Youth Justice Division will lose the expertise and connection to

practitioners it needs. One of the strengths of the YJB is that it is staffed almost entirely by former practitioners.

We are not clear why it is felt that accountability for decisions about the safe accommodation of children and young people should rest more directly with ministers. We feel that the YJB has fulfilled its duty for that safe accommodation well and that there is no evidence children would be safer were the YJB abolished.

**Question 25: How do you believe that the Government can best ensure effective governance of youth justice in the future?**

1. Retain the YJB, albeit as a smaller organization.
2. Enforce the *Crime and Disorder Act 1998* so that local authorities and their partner agencies retain youth offending teams as multi-agency teams with agencies seconding staff for fixed periods.
3. If the YJB is to be abolished, ensure the new advisory board on youth justice has a powerful remit, access to all Ministry of Justice data and information and regular meetings to report on progress to the relevant Minister.