

Prison Reform Trust submission Youth Justice Board Triennial Review 2013

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 submit evidence to this Review. Given the Review's remit, we also submit the Prison Reform Trust's earlier submissions to the Justice Committee's [Inquiry into the abolition of the youth justice board](#) (2011), the [Public Bodies Bill consultation](#) (2011) and the review of the YJB's governance and operating arrangements (2010) as supplementary evidence. As a member of the Standing Committee for Youth Justice, the Prison Reform Trust also supports SCYJ's response to this Review. We have chosen to comment on the following YJB functions: A) Overarching duty – principle aim of the youth justice system; B) advising and publishing information; C) good practice; F) accommodation for detained under-18s; and G) placement of children and young people and briefly to confirm other arrangements set out in the Review.

Overview:

In principle, the Prison Reform Trust supports the Youth Justice Board retaining each of the statutory functions addressed by this Review. However, there is scope for some improvement, and for the involvement of other individuals and agencies to raise standards and improve practice.

We would resist any attempt to revise the way those functions pertaining to the secure estate (specifically functions F-J) are delivered, and would not support bringing them in-house [to the MoJ] or their delivery by an Executive Agency [specifically NOMS].

These functions are best delivered by a body which is arms-length from central government, but retains public accountability. Whilst there are aspects of the YJB's delivery of these functions which could be improved, (for example through external oversight or review of contested placement decisions and greater transparency of the factors influencing decisions to commission or de-commission places in the secure estate) we believe it has the expertise

and appropriate focus on adolescent devility required to exercise these functions in accordance with the principal aim of the youth justice system.¹

A) Overarching duty – principle aim of the youth justice system:

Following the Crime and Disorder Act and the creation of the Youth Justice Board, by setting an overarching duty and a principle aim of the youth justice system, government was able to create and maintain a more cohesive and effective system for preventing offending by children and young people.

B) Advising and publishing information:

It is critical that the Secretary of State is advised on developments in the youth justice system and receives clear, accurate and independent information about children and young people in trouble. The YJB has an important role to set national standards in conjunction with the Secretary of State and to monitor compliance with these.

C) Good practice:

Whilst the YJB should retain statutory responsibility for the 'identification, making known and promotion' of good practice to ensure a child and youth-focus is retained, we would welcome a greater role for frontline staff who will often know best how to engage, support and challenge the children and young people they work with. We would like to see the YJB fulfilling a coordinating role, providing formal and informal spaces encouraging practitioners to evaluate their own practice, peer-review and share their experiences of what works. This approach would encourage innovation in the delivery of statutory and other interventions and should improve communication between youth justice, children's services and child and adolescent mental health services.²

The online effective practice database developed by the YJB is a useful tool, but we would caution against an approach to practitioner-engagement which focuses solely on remote, online learning.

There is scope to develop effective practice in the youth justice system, for example in regards to the use of restorative justice and the dissemination of good practice in this sphere.³

Whilst the YJB has been criticised for under-using its research capacity and expertise, there is a case to be made for combining its good practice and research functions, with the emphasis on producing timely, practitioner-focused evidence to support effective practice.

¹ Section 37 of the Crime and Disorder Act 1998

² <http://www.prisonreformtrust.org.uk/Portals/0/Documents/turningyounglivesaroundFINAL.pdf>

³ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/making%20amends%20restorative%20youth%20justice%20in%20northern%20ireland.pdf>

F) Accommodation for detained under-18s:

Whilst the needs of many children in custody are not adequately met by current provision (notably that in young offender institutions) we do not believe that alternative delivery arrangements would improve accommodation. We would not support bringing this function in-house [to the MoJ] or delivery by an Executive Agency [specifically NOMS] as commissioning for the youth secure estate requires an over-arching strategic focus on the needs of children, a dedicated under-18s budget and staff expertise. For these reasons, we can see no benefit in removing this function from the YJB.

One way of improving standards in the secure estate, and ensuring accommodation commissioned centrally [by the YJB] is responsive to the needs of the minority of children for whom a period of detention is appropriate would be to provide clarity over the factors influencing commissioning decisions. This is particularly important given the recent reduction in the number of secure children's homes from which the YJB commissions places. Whilst current occupancy rates in secure children's homes are higher than in both STCs and YOIs⁴ we would welcome increased transparency over the decision-making process before further decisions to decommission are taken. We are particularly concerned, for example, that secure children's home providers be on a level-footing with other (public and private) providers of secure accommodation when tendering for services.

G) Placement of children and young people:

We appreciate that the decision-making process which informs the placement of children and young people who have been detained by the court is complex and that the YJB is constrained, to a degree, by financial and capacity-related considerations. The factors which must be taken into account (including capacity, distance from home, vulnerability and other assessments and suitability of regime) may, in certain instances, be at odds with one another. In addition, the placement team is, to a greater or lesser extent, reliant on the provision of accurate and timely information from practitioners about the child in question.

With this complexity in mind, we are concerned that the decision-making process is not as transparent as it could be, and that a robust mechanism for facilitating organisational learning is not in place. To that end, we believe there is a place for external oversight of placement decisions, which could, for instance, allow for retrospective review of all placement decisions which were either contested (whether by the YOT, defence solicitor or family members), or went against the recommendation of the YOT worker. Such a review should certainly take place if there is a death in custody, given that coroners are not empowered during an inquest to consider placement decisions directly.

We understand, for example, that in the case of the three most recent child deaths in custody, each of the boys was identified as 'extremely vulnerable', with recommendations

⁴ <http://www.justice.gov.uk/downloads/statistics/youth-justice/custody-figures/youth-custody-report.xls>

for an STC placement made for two of them, yet all three were placed in YOIs. This echoes concerns raised in *Fatally Flawed*, Prison Reform Trust research into learning from deaths of children and young people in prison, which found that those who died were some of the most disadvantaged in society, and had experienced problems with mental health, self-harm, alcohol and/or drugs, yet were overwhelmingly placed in prison service accommodation ill-equipped to meet their needs.⁵

Given that, as of April 2013, local authorities will become responsible for the full cost of remands to youth detention accommodation, it is likely that the YJB's placement decisions will come under increased scrutiny (particularly if the proposal to charge local authorities the full differentiated cost of a placement rather than a secure estate average is implemented). We expressed the following concerns in our submission to the Ministry of Justice consultation on the allocation of new burdens funding to local authorities:

Given the per-night price differential between a place in an SCH (£577) or STC (£607) and in a young offender institution (£173), there is also a real risk that the independence of the placement process could be compromised, with decisions being made according to financial, rather than welfare, concerns. We would welcome greater transparency over the factors driving placement decisions, detail of which does not feature in the consultation document, and clarification of the monitoring mechanisms and provisions for review which will be put in place to ensure the devolution of the remand budget does not lead to inappropriate placements.⁶

To ensure clarity and accuracy of decision-making, and to pre-empt the potential for undue influence of the placement process (whether directly or in-directly), a mechanism for review should be introduced at the earliest opportunity.

Further comments:

As the Review makes clear, the Youth Justice Board and its functions, remit and position have been subject to a series of similar reviews and public consultations in recent years. Indeed, in giving evidence to the Lords Constitution Committee recently, the outgoing Chief Executive expressed concerns that this time of uncertainty, which included the 12 month period following the announcement of Government's intention to abolish the YJB, and subsume its functions, "*had consequences for us in terms of our authority to exercise our statutory role. Not authority in a legal sense, but the degree to which people with whom we work were prepared to comply*".⁷ Given that the functions of the YJB include accommodating detained under-18s, the placement of children and young people, and appointing STC monitors and YOI controllers, we are concerned that non-compliance by

⁵ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Fatally%20Flawed.pdf>

⁶ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Allocationofnewburdensfundingtolocalauthorities.pdf>

⁷ <http://www.cypnow.co.uk/cyp/news/1076076/plan-axe-yjb-weakened-influence-chief>

contracted service providers may have had a detrimental impact on children and young people in custody. We would welcome confirmation that the YJB's authority is unchanged and that non-compliance will be rigorously dealt with. This Review provides an opportunity for Ministers to confirm the Youth Justice Board's future as a non-departmental public body and to consider including within its ambit 18-20 year olds in the criminal justice system.

Prison Reform Trust
February 2013