

Prison Reform Trust submission Transforming Youth Custody: Putting education at the heart of detention

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 consultation. The Prison Reform Trust is a member of the Standing Committee for Youth Justice (SCYJ), and fully supports SCYJ's response to this consultation. To prevent duplication, we have therefore chosen to respond only to those questions on which we have additional expertise or can draw relevant information from our research. We are grateful to Alison Giraud-Saunders, independent consultant: Policy into Practice, for the major contribution she has made to this submission.

Overview and key concerns

The reduction in the child custodial population in recent years, coupled with the Government's commitment to improving outcomes and reducing overall costs, provides a once-in-a-generation opportunity to radically revise the youth secure estate and its usage. Building on the recent wave of decommissioning in the youth estate, the time is now right to reconsider the policy of placing children in prison service-run young offender institutions (YOIs). If it is to meet the government's priorities of providing high-quality education in institutions which can meet the complex needs of children who are imprisoned and reduce reoffending, the children's secure estate must be child-centred, staffed by highly-trained professionals, in small, well-resourced units. A combination of inexperienced providers and swingeing budget cuts would be a recipe for disaster.

Given the structural limitations of the youth secure estate as it is currently configured, and the poor record of YOIs in delivering positive outcomes for children, we are encouraged by Ministers stated desire to take a different approach. Whilst we welcome the commitment to using education provision in custody to lever change, and improve outcomes, such a focus on education in the community, and reducing school exclusions, would also bring dividends.

The Prison Reform Trust is concerned that both an increase in custodial sentencing and greater use of longer sentences could be unintended consequences of the proposals outlined in this consultation. If sentencers view a custodial sentence as a

means of accessing education provision which isn't readily available in the community there is a risk they may impose custody in cusp cases which would previously have received a community sentence, or move up the sentence tariff more readily. When coupled with the risk of longer sentences being handed down as a way of addressing limitations to what can be achieved in short periods in custody (both in terms of education and challenging entrenched behaviour) there is a real danger that hard-won gains made in recent years could be lost. We would welcome clarification on the safeguards that will be put in place to prevent this from happening to ensure custody is a true last resort for children in trouble.

We are pleased that the 'case for change' acknowledges the prevalence of learning disabilities and learning difficulties in the population of children who commit offences, along with the growing evidence on neuro-developmental disorders. Given this evidence of need, we would like to see a very strong cross-Department link with policy for children and young people who are disabled and/or have special educational needs. Whilst education is important, and is a key focus of this consultation, we welcome the recognition that children with learning disabilities have a range of wider needs (for social and behavioural support, for example). Many such children have had very poor experiences of education that have left them with low self-esteem and no belief in their own abilities to learn or in the value of educational opportunities.

We welcome the recognition of the needs of children with learning disabilities and difficulties. We think there are real opportunities to join up policy as well as delivery to achieve shared aims of reducing offending/reoffending and improving life chances. Education, Care and Health Plans (EHCPs) offer a clear model for this and we hope the chance will be taken to build them into the proposals.

Whilst we acknowledge that education has a crucial role to play in raising standards and tackling reoffending rates, we are concerned that proposals outlined are insufficiently oriented to addressing the complex health and welfare needs of children in custody. As the consultation document makes clear, staff working in the youth secure estate must have an understanding of the layers of disadvantage many children will have experienced – abuse (both physical and sexual) and neglect; mental health problems; substance misuse and addiction; deprivation; behavioural and emotional difficulties; poor parenting; impairments such as learning disabilities and learning difficulties; and domestic violence are all common.¹ We would endorse the perception that “*in some cases, these needs will have to be met or problems tackled before the young person can make educational progress*”. Arguably, addressing emotional, psycho-social or welfare needs must take priority over educational progress, not least because expecting such children to engage constructively in education may be unrealistic.

¹ Prison Reform Trust (2010) *Punishing Disadvantage – a profile of children in custody* PRT: London

Finally, we would encourage government to focus on the long-standing disparity between the proportion of sentenced children and young people who say they want to stop offending and those who feel they have done something whilst inside that will make them less likely to offend in future as the basis for reforms to the youth secure estate.² Why do children and young people in custody feel this way? What do they think would make the difference between staying on the straight and narrow and falling back into offending, and how can they be supported to achieve success?³ As this finding suggests there is a significant well of goodwill amongst children and young people in custody which isn't, at present, being recognised.

Meeting the wider needs of young people in custody

There is a risk that responses to this consultation could recommend segregation of children with learning disabilities and difficulties, for the convenience of education providers. We do not believe this would be in the best interests of children, who may well need support to learn improved skills in mixed social groupings. The educational and offending behaviour programmes on offer will, however, need to be tailored to meet their needs. Kelly et al⁴ have recently confirmed the need for adapted programmes. The Foundation for People with Learning Disabilities is managing a project to adapt delivery of the Thinking Skills Programme to include prisoners with IQs below 80 and the piloting has demonstrated that this is both feasible and welcomed by prisoners and staff.

In order to benefit from improved opportunities for education, training and work preparation, many children with learning disabilities will need a co-ordinated programme that attends to communication, relationship skills, problem-solving, life skills and self control as well as physical and mental health. Desistance theory has much in common with health and social care models in this respect.

We were therefore surprised and disappointed that the proposals do not seem to include continuous operation of Education, Health and Care Plans (EHCPs) across community and custody. There is already recognition in the consultation document of the need for improved continuity so that gains in one setting are sustained in another. This is particularly important for children with learning disabilities, who are likely to have difficulty transferring the learning achieved in one setting to application in another.

The 'case for change' notes that YOTs will be involved in EHCPs for under-18s who have been in custody and that information sharing will be made '*easier when a*

² 89% versus 45% respectively - <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/summaries-of-juvenile-survey-responses/children-and-young-people-custody-2011-12.pdf>

³ Lyon, J. et al (2000) '*Tell them so they listen*' Messages from young people in custody Home Office: London

⁴ Kelly, J., Collier, A. and Stringer, J. (2012) Providing a learning disability in-reach service for young adult offenders serving a sentence of Imprisonment for Public Protection. *Journal of Learning Disabilities and Offending Behaviour*, 3, 3, pp.139-149

young person enters custody'. There seems no good reason why EHCPs should not travel with children into, through and out of custody, or start in custody if the need for one is first identified there. Given the concerns that are already noted about 'insufficient join-up', with wasted time and lost opportunities, information sharing should not just be made 'easier': it should be a requirement.

How would young people best be kept safe and secure in your model of a Secure College?

The recently published inspectorate report on HMYOI Hindley paints a vivid portrait of a prison where violence, restraint and self-harm are commonplace - we are not convinced that the government's vision of 'secure colleges', with its emphasis on 'self-discipline' and 'responding with safe methods to control behaviour where necessary', places sufficiently rigorous expectations on potential providers on proactively dealing with a population characterised by the Chief Inspector as "very unhappy young people".⁵

Addressing gang affiliation, for example, and the attendant violence that so often comes with it, cannot be achieved by 'preventing escalation' and controlling behaviour alone. Instead of relying on traditional methods of controlling a volatile population (such as the threat of control and restraint) we would welcome, for example, a commitment to making restorative practice-trained staff a contractual requirement for new providers. Using restorative practice as the basis for conflict resolution within the secure estate could also pay dividends in helping to reduce levels of violence, and help children to develop empathy and think about the impact of their actions on others.⁶

We would like to submit the recent joint Prison Reform Trust and INQUEST report⁷ which considered the children and young people who died in prison between 2003-2011, as supplementary evidence to this consultation.

How can we best meet the needs of young people in custody who are looked after children or care leavers?

The Welsh Government has recently consulted on a proposal to make all children who are imprisoned looked after, to remove the artificial distinction which is made between children in custody who are looked after and those who are not. As research published by the Prison Reform Trust has shown, children in custody are often the most vulnerable in society – a survey of 200 imprisoned children found that more than half (56%) had either: spent time in care; been on the child protection

⁵ HMIP (2013) *Report on an unannounced inspection of HMYOI Hindley 19-23 November 2012* HMIP: London

⁶ Prison Reform Trust (2009) *Making Amends: restorative youth justice in Northern Ireland* PRT: London

⁷ Prison Reform Trust (2012) *Fatally Flawed: Has the state learned lessons from the deaths of children and young people in prison?* PRT: London

register; or had other contact with/ or referrals to, social services⁸. We would welcome consideration of such a move for children in England, to prevent the creation of a two-tier system which discriminates against children in custody on the basis of geography.

Prison Reform Trust research based on interviews with looked after children, some of whom were or had been in custody, highlighted the importance that children placed on positive relationships with at least one adult – someone who could be trusted and relied upon to provide practical and emotional support wherever they were, whether in custody or the community⁹. As well as ensuring that looked after children in custody receive the care planning support to which they are entitled, forward-planning for accommodation on release should begin at the point of entry to custody, to prevent inappropriate placements in bed and breakfasts or hostels. More broadly, we would welcome a renewed focus on the drivers to custody for this group, to address the over-representation of children in care in custody.

As a first step, we would recommend addressing the existing anomaly which sees children accommodated under Section 20 lose their looked after status, with the attendant impact that this has on the support they receive on release, if they are sentenced to custody.

Closing the gap between custody and community

This consultation acknowledges the risk that children with learning disabilities and difficulties will fall between several service stools and *'miss out on vital support they need to successfully re-enter the community'*. As it is, they already risk being excluded by tight eligibility criteria for social care and in health they may be accepted by neither CAMHS nor adult learning disability services. Adding in a history of offending behaviour complicates the situation further, with many learning disability services saying that they do not have the skills or capacity to work with offenders. Some community learning disability teams are tightening their eligibility criteria so that they will only work with people who have an IQ of 50 or lower. Services aimed at offenders do not always have the skills to work with people with cognitive impairments.

As well as improved opportunities in custody, this consultation rightly highlights the need for improved through-the-gate planning and support in order to achieve a better chance of successful re-entry to the community and a reduced risk of reoffending. Learning from supported employment and supported living initiatives confirms that *'place and support'* is a more successful approach for people with learning disabilities than *'readiness'* models that rely on transfer of skills from one setting to another. As noted, an important component of this planning and support must be

⁸ Prison Reform Trust (2010) *Punishing Disadvantage – a profile of children in custody* PRT: London

⁹ Blades, R. et al (2011) *Care – a stepping stone to custody? The views of children in care on the links between care, offending and custody* PRT: London

attention to the child in the context of their family and other key relationships, as these social connections can pose significant risks as well as being strong protective factors. This could all be encompassed in a continuous Education, Health and Care Plan (EHCP).

Use of a continuous EHCP would be of further benefit in forming the basis for agreeing person-centred outcomes that would travel across organisational and setting boundaries. These could be used to incentivise joint working and to hold partnerships to account for performance.

What scope is there for education provision in a Secure College to be continued when a young person is released from custody, and does the current legislative and policy framework provide sufficient flexibility?

Before even considering how education provision can be continued on release, it is worth thinking about the scope for constructive links to be made between secure provision and education in the community. We would welcome, for example, use of the release on temporary licence (ROTL) mechanism to facilitate day attendance at schools, colleges or alternative provision in the community for children in custody who pose no risk to the public. Such an approach would meet the consultation's stated aim of achieving continuity in education provided during a period in custody and on release. It would also enable children to maintain relationships with family members, teachers and others who may be supporting them, and would encourage them to rebuild their place in society in the communities to which they will be return. For those children for whom formal education or college placements are unrealistic, apprenticeships or other vocational placements, again delivered through ROTL, should be actively encouraged, with a view to placements continuing on resettlement. Finally, we would encourage greater use of ROTL to facilitate meaningful volunteering opportunities in the community, as a means of enabling children for whom a spell in custody is inevitable to make amends for their crimes, to give something back to the community, and to learn new skills.¹⁰

Children in custody share the same hopes and dreams for the future as their peers outside. The annual survey of 15-18 year olds in custody undertaken by HM Inspectorate of Prisons and the Youth Justice Board demonstrates the importance of education to children and young people's perceptions of achieving success, and their aspirations on release, with almost two thirds (63%) of those who had taken part in education whilst in custody thinking it would help them on their release.

More than half of those surveyed (56%) who had a training, sentence or remand plan were planning on going to school or college on release - however, less than half

¹⁰ See the Prison Reform Trust's 2011 report *Time Well Spent* for a discussion of the ways in which providing opportunities for prisoners to take responsibility and volunteer to help others improves wellbeing and promotes desistance from crime:
<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Time%20Well%20Spent%20report%20lo.pdf>

(44%) knew who to contact for help in getting into school or college, and almost a third (30%) thought they would encounter problems in securing placements¹¹. Anecdotal evidence suggests that they are right to be cautious, as getting back into school or college can be fraught with difficulties after time in custody – because mainstream schools often refuse to take children back and many colleges only enrol students in September. For those who are released from custody during the academic year, this can mean returning to the homes and communities they left without meaningful opportunities for engagement. With youth unemployment at a record high, and criminal records acting as a barrier to employment for some, it is unlikely that paid work fills this gap.

To counter this, and to give teenagers leaving custody the best possible chance of turning their backs on crime, we would welcome a duty on schools to keep places open for pupils who spend time in custody, unless an alternative placement that is better suited to an individual child's needs is available at the time of their release, and they, and their family, are in agreement. For many (though not all) children, returning to mainstream education is central to successful reintegration into the wider community.

For those leaving custody and returning to, or starting at college, a similar expectation on further education establishments to offer staggered enrolments throughout the academic year, would ensure progress made in custody (whether academic or simply attitudinal) is maintained.

Whether children leaving custody are returning to mainstream schools, colleges or specialist placements, expectations for release should form a central plank of sentence planning, to allow for continuity between custody and the community. Planning for enrolment or applying for places should happen at the earliest opportunity, once comprehensive assessments have been undertaken to identify any undiagnosed impairments such as learning disabilities, learning difficulties, speech, language or communication needs. It is not acceptable that children who want to learn and return to education after time in custody are prevented from doing so because of bureaucracy or poor planning.

Whilst children in prison are disproportionately likely to have truanted, been excluded (whether for a fixed-term or permanently), or to have missed prolonged periods of schooling,¹² it is essential that society's expectation of them and their capacity to achieve, encourage children to succeed.

¹¹ HMIP/ YJB (2013) *Children and young people in custody 2011-12 An analysis of the experiences of 15-18 year olds in prison* HMIP: London

¹² Ibid.

The physical environment and meeting demand

How many young people should be held in an individual Secure College? Where should Secure Colleges be located, and how might a network of such establishments that served England and Wales be configured?

Secure children's homes, which are run by local authorities on therapeutic grounds with a high staff-child ratio, are our preferred model for secure placements, both in terms of their size and operation. Staffed primarily by social workers and support staff who are equipped to work with the youngest, and most vulnerable, they have the links to local and statutory services which are vital to the delivery of interventions that are best-placed to address the complex needs of this group.

Given recent reductions in the number of secure children's home beds commissioned by the Youth Justice Board, we would welcome a commitment from government that existing capacity in SCHs will be retained.

What are the key ways in which the costs of youth custodial provision can be driven down, recognising the constraints on public finances and the need to make significant savings?

The simplest way of driving down the costs of youth custodial provision is to reduce unnecessary child imprisonment. Since 2007/8, the number of children in custody has more than halved.¹³ This reduction has been achieved without an attendant increase in youth crime.¹⁴ Given that, in 2011/12, children imprisoned for non-violent offences accounted for at least one third of the average population¹⁵ (breach of a statutory order alone accounted for one in seven of those in custody), there is scope for this reduction to continue. Finding ways to do so should constitute the government's priority.

Whilst we welcome the consultation's acknowledgement of the limitations of the Detention and Training Order, which accounts for more than half of all children in custody¹⁶, we are concerned at the intimation that the solution to its 'insufficient flexibility' lies in setting new longer minimum periods in custody. Indeed, sentencing children to extended periods in custody so as to facilitate access to, and participation in, quality education, training and employment opportunities would directly contravene the UN Convention on the Rights of the Child's principle of custody as a last resort. Sentencing a child to a period in a 'secure college' must not become a gateway to access services that, for whatever reason, are not in the community. There is scope to build on the success of devolving remand budgets to local authorities. Consideration should be given to devolving youth custody budgets in full

¹³ February 2008 to February 2013

¹⁴ Allen, R. (2011) *Last resort – Exploring the reduction in child imprisonment 2008-11* PRT: London

¹⁵ Ministry of Justice (2013) *Youth Justice Statistics 2011-12 England and Wales* MoJ: London

¹⁶ YJB Monthly youth custody report – February 2013

in order to concentrate the minds of local authorities, facilitate better partnership working to help children out of trouble.

Finally, we would also question the assumption that costly and labour-intensive security measures are a requirement for all children for whom the courts decide a period in custody is required. Whilst there are some children in custody who pose a significant security risk, both in terms of likelihood of absconding and of threat posed to the public, this could be managed effectively without requiring all children in custody to be held subject to the same security requirements. The costs of the youth secure estate could be significantly reduced, and children's engagement with education, training and employment in the outside world greatly improved, if security reflected actual rather than perceived risk.

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